LIBRARY SUPREME COURT U.S.

No. 417

No. 13,034

Office - Supreme Court, U.S.
FILED
AUG 30 1957
JOHN T. PEY, Clerk

IN THE

UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

WILLIAM EPSTEIN,
Appellant,

vs.

UNITED STATES OF AMERICA,
Appellee

APPEAL FROM THE UNITED STATES DISTRICT COURT, FOR THE WESTERN DISTRICT OF TENNESSEE, WESTERN DIVISION

APPENDIX TO APPELLEE'S BRIEF

MILLSAPS FITZHUGH,
United States Attorney,
EDWARD N. VADEN,
Assistant United States Attorney,
WARNER HODGES,
Assistant United States Attorney,
Western District of Tennessee
Memphis, Tennessee

CHARLES K. RICE,
Assistant Attorney General,
Department of Justice,
Washington, D. C.

FILED
MAR 11 1957
CARL W. REUSS, Clerk

The Daily News, Memphis, Tenn., 3/6/57—35c.

INDEX TO APPELLEE'S APPENDIX

WITNESSES

	Page
H. A. Sheley	3b
Wallace C. Summers	7b
Cameron D. Huddleston	12b
E. T. Proctor	16b
Lloyd C. McCuiston, Jr.	16b
Mrs. Ray Simerson	18b
A. R. Davis	19b
Arthur W. Flanigan	31b
Jack W. Rich	33b
A R Davis	33b
Herman Gruber	34b
Erus Bradshaw	36b
Kemmons Wilson	37b
Mrs. Wilma B. Billingsley	39b
Paul L'Heureux	39b
Lawrence Mason	43b
Fred P. Cawein	43b
Charles D Johnston	44b
H. H. Green	45b
Charles E. Prescott	46b
James H. Ozment, Jr.	47b
H. H. Jeter	47b
Allen Wood Winkle	49b
Hugh M. Adams	50b
Louise B. Byrne	51b
Roy M. Scott	52b
Edward Levine	53b
Miss Katherine McCaleb	55b
Lacey Dix	56b
Catherine C. Burt	56b

WITNESSES (continued)

	Page
Guy Boyer	57b
W. M. Emerson	58b
Mrs. Irving Nathanson	59b
Auvergne Blaylock	59b
E. H. Godwin	61b
Troy Mullins	61b
Tom Gooden	62b
Diamond Barrett	62b
John T. Dwyer	63b
Anna Coleman	64b
Hal A. Hall	65b
Bertha Thomas	65b
Columbus Nathan	66b
Hubert A. Norris	67b
Julius Mason	84b
Hubert A. Norris	85b
Louis T. Weis	121b
J. C. McDonald	123b
Albert Wooldridge	124b
Maynard Epstein	125b
Richard Deutsch	127b

APPENDIX TO APPELLEE'S BRIEF

TRANSCRIPT OF THE EVIDENCE*

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TENNESSEE WESTERN DIVISION

UNITED STATES OF AMERICA

vs. Number 8394 Criminal

WILLIAM EPSTEIN

PROCEEDINGS

* * * * *

TESTIMONY OF H. A. SHELEY

DIRECT EXAMINATION
BY MR. VADEN:

* * * * *

11 MR. VADEN: We have got it here now. Now, I would like to get those marked, the oldest one first, —1, 2, 3, 4, — whatever it is, — 1, 2, 3, 4, 5, — the series.

(Said tax returns of defendant for the year 1949 through 1952, including 1951 Amended, were accordingly marked as Exhibits 1 through 5 to the testimony of Mr. Sheley.)

---

* Numbers appearing in outer edge of text indicate page numbers of original stenographic transcript of testimony.

12 Q. All right, now, I will ask you to look at each one of them up at the top, and just read the name and address on them, so that the jury will see the name and address, and tell us whether or not they are joint returns of William and Pearl Epstein, I believe it is, — is that right?

A. That is right, William and Pearl Epstein.

Q. What is the address used on same?

A. 162-164 Beale Avenue.

* * * * *

13 MR. VADEN: Those have been marked. And I believe counsel will agree they are correct.

MR. WILL GERBER: We have no objection to those, and they can be in now.

* * * * *

14 Q. All right, you have handed me personal and individual income tax returns, William Epstein, 166 Beale, for the year 1940; personal return of William Epstein, 166 Beale, for the year 1941; individual return William Epstein, 166 Beale, for the year 1942; William Epstein for '43; William Epstein for '45; Pearl Epstein for '46; William Epstein for '46; Pearl Epstein for '47; William Epstein for '47; William and Pearl Epstein for '48.

I would like to have those marked the next numbers, please.

15 (Said documents were accordingly marked Exhibits 6 through 15, respectively, to the testimony of Mr. Sheley.)

MR. VADEN: All right, I will put a band around them and try to keep them separated.

Q. Now, Mr. Sheley, we have requested, and I will ask

you whether or not you have there an official statement over Mr. Rountree's signature of the taxes paid by William or Pearl Epstein during these indictment years and any prior years thereto?

A. Yes, sir.

Q. Do you have that there certified by Mr. Rountree?

A. Yes, sir.

Q. May I see that, please, so counsel can look at it?

A. In triplicate.

* * * * *

16 (Said document was accordingly marked as Exhibit 16 to the testimony of Mr. Sheley.)

MR. VADEN: One in the name of Pearl Epstein, next number.

(Said document was accordingly marked as Exhibit 17 to the testimony of Mr. Sheley.)

MR. VADEN: And one referring to the file of William and Pearl on the joint return, — next number.

(Said document was accordingly marked as Exhibit 18 to the testimony of Mr. Sheley.)

* * * * *

17 MR. VADEN: You have handed me some returns, income tax returns beginning in '45, J. P. Kirschner, 162 Beale, being some individual income tax returns, one for '46, one for '47, one for '48, and one for '49. All same name, same address.

I would like to get these marked the respective numbers, — next numbers.

(Said tax returns for the years 1945 thrugh 1949 were accordingly marked as Exhibits 19 - 23 to the testimony of Mr. Sheley.)

18 Q. I will ask you whether or not Mr. Rountree certified and you brought with you a Form 899 showing certificate of assessments and payments of J. P. Kirschner here in Memphis, Tennessee? The only address I have is 162-166 Beale?

A. Yes, sir.

• • • • •

20 Q. I have copies of these information returns. Now, we might inquire about another business you have there, I am sure. We want to know whether you had with you some partnership returns having to do with Park
21 Avenue Restaurant, — it is a restaurant here in Memphis, — for the fiscal years '47, '48, '49. Do you have those with you?

• • • • •

MR. VADEN: I would like these marked the next three numbers.

(Said tax returns for fiscal years ending October 31, 1947, 1948 and 1949, were accordingly marked as Exhibits 27 - 29 to the testimony of Mr. Sheley.)

• • • • •

22 Q. I believe you call that a Form 942, is that right?

A. That is right, household help.

Q. Household help. I will ask you whether or not you have produced here any forms taken off the rolls showing any salaries paid for domestic help, household help, for the years '51 and '52?

A. Yes, sir, I have.

23 Q. May I see those, please?

(Documents examined by counsel.)

• • • • •

(Said documents were accordingly marked as Collective Exhibit 30 to the testimony of Mr. Sheley.)

Q. This appears to be some returns filed and signed by Mrs. William Epstein to show the payment of wages to certain domestic help at the residence at 661 East Drive, now, — for the year '51 and '52. It shows on the face the tax was three per cent. That is the customary payment or percentage that you paid into Social Security, is that right?

A. That is right, yes, sir.

24 Q. I have asked you to go over these matters and save us some time and make some calculations. Going by the tax that has been paid here, have you added it all up and applied the three percent formula to it?

A. Yes, sir, I have.

Q. In the year '51, on the tax we have here, this Social Security, how much was paid for domestic servants?

A. Two thousand six hundred fifty-two dollars.

Q. Two thousand six hundred fifty-two dollars?

A. Yes, sir.

Q. Did you make a calculation as to how much was paid for domestic servants in 1952 by the tax paid?

A. Yes, sir, I have. Two thousand, seven hundred fifty-nine dollars.

. . . . . .

TESTIMONY OF WALLACE C. SUMMERS

DIRECT EXAMINATION
BY MR. VADEN:

. . . . . .

35 Q. Yes. And in addition, I will ask you whether or not you had occasion to prepare other returns, '45, '46, '47, and '48?

A. I think I began about '45.

MR. VADEN: Yes.

A. (Continuing) — If I am correct there.

Q. Both for William Epstein and I think one that is here for Pearl Epstein, all individual returns. Do you remember that?

A. Yes, I think —.

Q. Better look at those and see.

Yes. Now, Mr. Summers, did you keep the books for Mr. Epstein, or how did you go about making out this report?

A. I got it strictly from information that was furnished me by Mrs. Epstein or Mr. Epstein.

Q. Yes. And each year you would make out the returns as I am holding here in my hands or as you have there?

A. Yes, sir.

Q. —Fix it up, they would sign it like all taxpayers do?

A. That is right.

Q. And it would go in to the Government. And did you conduct—, Homer K. Jones, I know, — and you do yourself I am quite sure conduct audits, — some people have their affairs audited each year, — did you conduct an audit of the Epstein affairs?

A. No, sir.

Q. You did not. And from information you say you got from Mrs. Epstein or Mr. Epstein, did you make a verification of it?

A. No verification in any way.

Q. No verification in any way. And whatever they told you, you put down on the return and fixed it up orderly?

A. That is right.

Q. — The way it is supposed to go in, and it was filed?

A. That is correct.

• • • • •

Q. Now, so that we know—, so that we know how those things happened, — and the jury is going to see these things there, — there is one place for you to put your name
37 over at the left; is that the person who prepares the return?

A. Yes, sir, I think that was the way. I know it is that way now, — I think that way all the way through.

Q. Well, you will notice there on the right the taxpayer and his wife signed over in the corner, that is true, isn't it?

A. Yes, sir.

Q. Now, so far as Kirschner is concerned, will you tell us—, he also has four or five returns there, — whether or not the same information—, or how you got the information on preparing the Kirschner returns?

A. Furnished by Mrs. Epstein.

Q. Yes. Did you ever see Mr. Kirschner along in there in and about the business on Beale Street?

A. Oh, I saw him once in a while, yes.

Q. Once in a while. And the returns themselves, if I understand it, then, you did not get the information from Mr. Kirschner?

A. No, sir, Mrs. Epstein.

Q. Yes. Now, that was done here in—, your income tax returns were prepared here in Memphis, Shelby County, Tennessee, in the Western District of Tennessee?

A. Yes, sir.

Q. The ones you have in your handwriting there?

38 A. Yes, sir.

Q. Now, Mr. Summers, going into the matter a little further, what sort of a book proposition did they have down there? You say you did not audit the books or anything. Do you know what sort of bookkeeping system they had?

A. Well, they had a little book, more on a memorandum form, that they accumulated the stuff from month to month. That was for the store.

• • • • •

Q. And do you know whether or not you made any—, you had any conversations with Mr. Epstein about some audit of his books, or whether or not it was necessary?

A. I told him that I thought maybe there should be a better system there.

MR. VADEN: Yes, sir.

39 A. (Continuing) —But I did not know whether it would be kept up or not, and I never did insist on it. I have found out if the thing is not kept up, it gets in worse shape than if you have got it on memorandum.

Q. And how many times did you talk to him about those records?

A. Oh, I don't know, sir, several times.

• • • • •

42 Q. Now, getting back to this proposition of keeping books down there, you stated that you did advise him to keep more accurate books and records?

A. Well, I suggested it.

Q. And, as a matter of fact, you talked to him several times about it, didn't you, as you say?

A. Two or three times, I don't recall.

Q. Well, what did he usually say when you talked to him about it, — Mr. Epstein?

A. I don't know. There was no definite conclusion made about it. It was just left from time to time.

Q. When you went back the next year it would be about the same thing?

A. Yes, sir.

Q. And I will ask you whether or not you didn't offer
43 to get Homer K. Jones and Company, or the company to set up a good set of books if he wanted to do it?

A. I believe we did suggest that.

• • • • • •

Q. So far as the books, as you say, the books that were at his concern, — in the first place, there wasn't any partnership books you could make any sort of balance sheet for him, is that right?

A. We couldn't make a balance sheet for him, no, sir.

Q. Did you have any other books you could make a
44 balance sheet off of, as far as you know?

A. No, sir.

• • • • •

REDIRECT EXAMINATION
BY MR. VADEN:

• • • • •

53 Q. The question about these books that we have spoken of here, — or here, — and this, — all underneath
54 here, — these books that you spoke of here that the jury has seen, this is the sales and expenses you are talking about, is that right?

A. That is right, it is sales, expenses, and a breakdown of expenses.

MR. VADEN: Yes.

A. (Continuing) And analysis.

Q. No way they can be verified just by looking at them, is there?

A. No, you would have to go back and look at the cancelled checks and stuff like that, which I did not do.

Q. That is right, cash and everything else is in here, isn't it, — cash, checks, and everything, — you just took the totals at the end of the books?

A. That is right.

* * * * *

TESTIMONY OF CAMERON D. HUDDLESTON

DIRECT EXAMINATION
BY MR. VADEN:

* * * * *

63 Q. At the same time. But generally speaking, did you put in much or little time on the Epstein matter before you were transferred?

A. Well, that—, 1 would say that I put in a lot of time on it.

* * * * *

69 Q. Did you work on that feature of the case?

70 A. Yes, sir, I did.

Q. And did you work out the starting point on a net worth method case?

A. Yes, I worked it for several years.

Q. Now, in addition to the books showing expenses, as you stated, and sales, — that is, the income sales, this Mr. Epstein, I think it has been testified to here, was in the pawn broker business, is that right?

A. Yes, sir.

Q. How was the business connected—, I have some

returns here of Mr. J. P. Kirschner. Did you work on that feature of the case, too, the store?

A. I got Mr. Kirschner's returns out of Nashville for I believe '47, '48 and '49.

MR. VADEN: Yes.

A. (Continuing) And I looked at them, but I was not able to get any records to check against those returns, so there was not much I could do on that. Mr. Kirschner was dead.

Q. Well, '50, '51, '52, — how was the store being conducted at the time when those returns were filed?

A. Well, during those years it was operated by Mr. Epstein, and it was a part of his return. The figures on that store were reflected on his pawn brokerage business. It was just an integral part of the whole.

• • • • •

71 Q. And did he pay everything by check, or some cash and some checks paid out?

A. Most of his expenses were paid by cash.

72 Q. Umhum. And was there some system of verifying these cash payments or just put them on the book?

A. I knew of nothing to go behind what was on the book. I knew of no way.

Q. Umhum. Do you know who kept the books up to the year 1949? Did you have any conversation with Mr. Epstein about that?

• • • • •

A. He said he kept them himself prior to January 1, 1949. However, I did not see any books for that period of —

MR. WILL GERBER: For what period?

A. Prior to January 1, 1949.

• • • • •

76 Q. Now, why couldn't you tell how much of that was checks and how much cash?

A. Well, that four hundred dollars was the only figure that was reflected on his books.

• • • • •

77 Q. Did the books show who had paid the money in?

A. No.

Q. So, coming on up to the proposition, you say you determined to try to compute this income by the net worth method. Were you ever able in your computations over the period you worked able to verify, outside of seeing — your seeing the word four hundred dollars on the receipts, we will say, for some day, — were you ever able to verify that as being the correct receipts for that day?

A. No.

• • • • •

78 Q. I will ask you whether or not one of the things in the net worth—, you say you figured the net worth, at least certainly started on the net worth theory here, — one of the things you figure in net worth, among the other things, is increase in net worth, — but if you don't also figure money spent for living expenses and other moneys that are expended by the taxpayer during the years in question to see how much money he came into possession of, — you have to figure the personal expenditures, and I ask you whether or not you did it in this case?

A. Yes, sir.

Q. I will ask you whether or not Mr. Epstein furnished you any records for that purpose, any cancelled checks, and whether or not you went through them?

79 A. Yes, he furnished me he and his wife's personal cancelled checks.

Q. And from that, did you arrive at some calculations about his living expenses to use in your net worth calculations?

A. Yes, sir, I did.

Q. Do you know whether or not—, and I don't remember myself, -- did that include life insurance payments and matters of that kind?

A. The figures that I worked up did include life insurance premiums.

Q. Yes. The reason I was asking you that, when you say he did furnish you the checks, did you have occasion to actually go over them with Mr. Epstein to see whether or not it was business or personal? That is what I mean.

A. I picked out certain checks that there was doubt in my mind about and asked him about them. I don't know just how many, but there would be several each year that I did ask him about, because I was uncertain about the purpose of the payment, and it could have been from most anything.

Q. That is right. Well, now, when you came to that point, and after you came to that point, will you tell us whether or not you found these personal expenditures to be relatively large or small?

• • • • •

80 A. Well, according to my standard of living, they were high. According to some people's, low.

• • • • •

CROSS-EXAMINATION
BY MR. WILL GERBER:

• • • • •

99 A. I feel that the figures on the books are not correct. That is all I can say.

• • • • •

TESTIMONY OF E. T. PROCTOR

DIRECT EXAMINATION
BY MR. FITZHUGH:

* * * * *

107 Q. E. T. Proctor?

A. E. T. Proctor.

Q. Proctor.

A. I am General Agent for Northwestern Mutual Life Insurance Company of Tennessee.

* * * * *

108 Q. Have you brought with you records showing payments to the company of premiums on certain policies of insurance from 1948 through 1952?

A. Yes, sir, I have.

Q. Will you tell his Honor and the jury what premiums were paid during those years?

A. There are two five thousand dollar policies, and the annual premium on them was $136.20.

Q. Is that on each policy?

A. That is on each policy.

MR. FITZHUGH: Yes.

109 A. (Continuing) The premiums were due each year on the 26th of October, and I checked and found that all of them were paid within the grace period.

Q. From '48 through —?

A. '48 through '52.

* * * * *

TESTIMONY OF LLOYD C. McCUISTON, JR.

DIRECT EXAMINATION
BY MR. HODGES:

* * * * *

114 Q. You are the Clerk of the County Court of Crittenden County, Arkansas?

A. Circuit and Chancery Court.

• • • • •

Q. Mr. McCuiston, you were subpoenaed to bring certain records with you. Do you have them there?

A. Yes, sir.

• • • • •

116 (Said photostatic copies of documents were accordingly marked as Exhibits 1 through 8, respectively,
117 to the testimony of Mr. McCuiston.)

• • • • •

Q. Mr. McCuiston, I believe you have a warranty deed and trust deed that relate to 2.56 acres of land located in Crittenden County, Arkansas, acquired in 1946 by William Epstein. Just take a look there—.

A. Let's see the originals there, the exhibits.

• • • • •

A. I have one here '47, the West twenty acres of the South Half of the Northwest Quarter of the Southwest Quarter of Section Thirty-One, Township Six North,
118 Range Eight East.

Q. How many acres were in that tract, now?

A. West twenty acres.

Q. All right. That is twenty acres acquired in '47 by William Epstein.

A. The deed record shows from Ella Jackson Smith, W. M. Smith, et al., to Pearl Epstein.

• • • • •

Q. What else?

A. On that tract of land I saw quit claim deed from St. Francis Levee District.

Q. Do you have the warranty deed there?

119 A. I haven't looked there.

Q. That is the reason I am asking, to be absolutely sure, on the tract of land acquired by William Epstein with H. H. Jeter in '49, — this land was subsequently sold to a W. S. Cockerham and wife, and a mortgage being retained by Epstein and Jeter?

A. Yes, sir, Book 208, Page 359, George Randolph, et al., to William Epstein and H. H. Jeter.

Q. All right, how much land, — what was that tract, —how large a tract is that?

A. Well, there are land lines drawn, but reading it over, I don't believe the acreage shows.

Q. Well, that is all right, then. Just don't bother. Now, with respect to that twenty acre tract of land that you previously mentioned, being property deeded Pearl Epstein in '47 in Crittenden County, Arkansas, I believe your records show, do they not, that that land was retained by Pearl Epstein, and was sold by her on March 7, 1956?

A. Yes, sir.

. . . . . .

TESTIMONY OF MRS. RAY SIMERSON

DIRECT EXAMINATION
BY MR. FITZHUGH:

. . . . . .

121 Q. Yes. Ray Simerson. And you are financial secretary of Berclair Baptist Church, is that correct?

A. Yes, sir.

Q. I will ask you whether or not in 1950 your records show that William Epstein, the defendant here, purchased a one hundred dollar bond in the Berclair Baptist Church, is that correct?

A. Yes, sir.
Q. And he paid for it, did he?
A. Yes, sir.
Q. Paid one hundred dollars?
A. Yes, sir.

• • • • •

TESTIMONY OF A. R. DAVIS

DIRECT EXAMINATION
BY MR. VADEN:

• • • • • •

128 MR. VADEN: You have handed me a photostat of William Epstein's signature card at your bank dated February 2nd, 1934, the two, — front and back.

I would like to have that marked 1 to Davis.

• • • • •

Q. Do you have some photostats on other accounts?
A. Yes, sir.
Q. Let's see those.
A. You want all of them?

MR. VADEN: Yes, sir.

129 Thank you, Mr. Jones.

Yes, sir, you have handed me one Epstein's Store, — here you are, Mr. Jones, — I believe that is June 2, 1940.

I would like that marked the next number.

(Said photostatic copy of signature card was accordingly marked as Exhibit 2 to the testimony of Mr. Davis.)

MR. VADEN: One on Mrs. William Epstein, I would like to have marked the next number.

• • • • •

MR. VADEN: I have another one, Kirschner's Store, by Mrs. Pearl Epstein.

(Said photostatic copy of signature card was accordingly marked as Exhibit 4 to the testimony of Mr. Davis.)

MR. VADEN: Let's see the original there. All right. Had to write that a little clearer. You hand me here another one, Kirschner's Store by Abe Kriger,
130 Authorized for endorsements only, By Mrs. Pearl Epstein.

(Said photostatic copy of signature card was accordingly marked as Exhibit 5 to the testimony of Mr. Davis.)

* * * * *

Q. Now, we have some four or five cards. Is that all the signature cards you have down there relative to William Epstein, Pearl Epstein, Kirschner's Store, signatures as far as any accounts in your bank?

A. I have a signature on the safety deposit box.

Q. You have a signature on the safety deposit box?

A. Yes, sir.

Q. Let's see that, please.

MR. WILL GERBER: No objection.

MR. VADEN: You have handed me photostats of signature card of your box number E 190 with a good many signatures, in two parts, with a good many signatures of Mr. and Mrs. William Epstein.

I would like to get it marked the next number.
131 (Said photostatic copy of signature card was accordingly marked as Exhibit 6 to the testimony of Mr. Davis.)

* * * * *

Q. Now, Mr. Davis, as far as the William Epstein account is concerned, I would like to ask whether or not you have the originals or copies of ledger sheets and deposit tickets in the bank of William Epstein at the Manhattan for the years '49 through '52?

A. Yes, sir.

Q. May I see those, please?

* * * * *

134 MR. VADEN: So, if Your Honor please, I offer in evidence for the years '49, '50, '51, and up and through November 29th, '52, collective exhibit the next number to Davis, of the William Epstein deposits in that account at the Manhattan Bank, ledger sheets and photostats of deposit slips.

* * * * *

(Said photostatic copies of documents were accordingly marked as Collective Exhibit 7 to the testimony of Mr. Davis.)

* * * * *

136 Q. Now, I will ask you whether or not you have photostats of the William Epstein account, similar, same account, in your bank for the years '47 and '48?

A. On which account is that?

MR. VADEN: William Epstein.

A. That is William Epstein, of '48.

Q. '47 and '48.

A. Yes, sir.

Q. As far as you know, are there any deficiencies on these?

A. No, sir.

Q. All there?

A. As far as I know.

Q. All right, you did not find any missing?

A. No, sir.

* * * * *

138 (Said photostatic copies of documents for 1947 and 1948 were accordingly marked as Collective Exhibit 8 to the testimony of Mr. Davis.)

Q. This small bunch, now, Mr. Davis, we have subpoenaed—, and I will ask you whether or not you have brought with you photostats of ledger sheets and deposit tickets showing the account which you have signature cards on, Mrs. William Epstein, for the years '49 through '52?

A. '49 through '52?

MR. VADEN: Yes, sir.

139 A. Yes, sir, I have.

* * * * *

(Said photostatic copies of documents were accordly marked as Collective Exhibits 9 and 10 to the testimony of Mr. Davis.)

* * * * *

140 Q. Now, Mr. Davis, I will ask you whether or not you also have with you the ledger sheets and deposit tickets or photostats of Mrs. Epstein's bank account for the years 1947 and 1948?

Are these all here, as far as you know?

A. As far as I know.

* * * * *

141 (Said photostatic copies of documents were accordingly marked as Collective Exhibit 11 to the testimony of Mr. Davis.)

142 Q. Now, I will ask you whether in response to subpoena you have produced and have with you some ledger sheets and deposit tickets on an account you have,

or did have, or may still have, at the Manhattan, which is in the name of Epstein's Store?

A. Yes, I have deposit tickets.

Q. Let's see those. I believe that account was possibly opened in 1951. You have a date there on it?

A. This is from January 8, '51, through November, '52.

Q. From January 8, '51, through the month of November, '52?

A. Yes, sir.

Q. And December is missing on that one?

A. Yes, it is.

Q. As a matter of fact, it shows the account was opened on January 8, '51, doesn't it?

A. Yes, sir.

• • • • •

143 THE COURT: Same ruling. Let them in.

(Said photostatic copies of documents were accordingly marked as Collective Exhibit 12 to the testimony of Mr. Davis.)

Q. Now, Mr. Davis, I will ask you whether or not you have with you and have brought here under subpoena photostats of the records of the Kirschner Store down at the Manhattan Bank beginning with the year 1945?

A. I have '47.

Q. '47?

A. 1947. It starts February 28, '47.

Q. And ends with—?

A. It goes to June 30th, '49.

• • • • •

146 Q. I ask you whether or not you produced with you photostats of the records showing any loans made by

the Manhattan Branch of Union Planters to Mr. or Mrs. William Epstein during the years '49 through 1952?

A. Yes, sir, I did. This is photostats.

(Documents examined by counsel.)

• • • • • •

Q. You have a whole set of what you call liability sheets?

147 A. Yes, sir.

Q. You have made that on the whole ledger?

A. Yes, sir.

Q. Beginning with 1934, really runs through May, '54, but it has '52 on one of the sheets?

A. Yes, sir.

• • • • • •

(Said photostatic copies of documents were accordingly marked as Collective Exhibit 14 to the testimony of Mr. Davis.)

• • • • • •

Q. Now, to save us all some work, I think it is possible, we asked you to have someone total this up for us

148 on this total amount of money borrowed. Do you have that?

A. On this other sheet—, this is '51 and '52, — let's see how we have got it totalled.

Q. You can call it by years, if you have it there. Of course it can be verified.

MR. WILL GERBER: What years is that, '50, — '51?

MR. VADEN: Yes, sir.

A. '51, it shows eleven thousand dollars.

MR. VADEN: Yes.

A. (Continuing) And also six thousand in '51.

Q. That is '51 also?

A. Yes, sir. And ten thousand in '51.

Q. '51 also?

A. Yes, sir. Did you say '47?

Q. '47, yes, if you have got it.

A. Fifteen thousand in '47.

MR. VADEN: Yes.

A. (Continuing) And fifteen thousand in '48?

MR. VADEN: Yes, sir.

A. (Continuing) Thirty-two thousand in '49.

MR. VADEN: All right.

A. (Continuing) Five thousand in '50.

MR. VADEN: Yes.

149 A. (Continuing) And another fifteen thousand in '51.

* * * * *

Q. Raise your voice and repeat the list there, please, sir.

A. '47, fifteen thousand; '48, fifteen thousand; '49, thirty-two thousand; '50, five thousand; '51, fifteen thousand.

* * * * *

151 Q. Now, do you have with you some figures relative to interest received by the Manhattan Bank as payment on these loans?

A. Yes, sir, I have a tape here with interest on it.

Q. Yes, sir. What does that show?

A. '47, it shows $1,049.86.

Q. How much in '48?

A. $881.84.

Q. And '50?

A. $515.23.

Q. '51?

A. Two separate totals, 330 and 990.

Q. Somewhere around thirteen or fourteen. What others?

A. '52, 440 and $1,686.68.

152 MR. HAL GERBER: What was that last?

Q. Have you got a grand total on the interest for those?

A. $1,688.68 in '52. Yes, I can add the total for you.

Q. You don't have it added up there?

A. The way he has got the total here, $6,702.09, according to this list.

Q. Sixty —

A. $6,702.09.

* * * * *

Q. Yes, sir. You have—, and I have here the photostats. Do you have it? I will ask you to look with me, if you will, for the ledger sheet prior to the year 1947, so that you can give us some idea about what loans were being made by Mr. Epstein at your bank. Do you have one

153 there in 1946? Can you tell by looking at that the renewals and the new loans?

A. No, sir, I don't know enough about them. I have got one here '46 of twenty-five thousand.

* * * * *

154 MR. VADEN: If the Court please, at this time I am offering for introduction a photostat of the collateral section or department of the Union Planters dated August 2, '51, relative to the holding of a loan or collateral on a loan of William Epstein of some United States Treasury coupon bonds and Investors Syndi-

cate investment certificate, total amount of par value on those two collaterals of ten thousand dollars.

* * * * * *

155 MR. VADEN: Also offering additional collateral records, photostats, of Union Planters, loans of William Epstein, dated February 25, 1947, Treasury bonds, two different series, in the amount of five thousand dollars each. And on the same photostat the additional loan record March 17, '48, of collateral there, two Treasury bonds in the total amount of ten thousand dollars, loans in each instance being made to William Epstein.

* * * * * *

MR. VADEN: Also offering photostats of the collateral department section at Union Planters, loan of William Epstein dated June 15, '48, where he put up two Treasury bonds, two per cent bonds, in the amount of one thousand dollars each on the loan, and loan of
156 William Epstein April 1, '46, that same bank, where he put up twenty thousand dollars United States Treasury bonds as security.

* * * * * *

Q. Now, Mr. Davis, in addition to these records, Mr. Davis, I will ask you to look at your original direct liability sheets and ask you to look there on a loan made on October 16, '51, to William Epstein, — this long sheet like I am looking at here, please.

* * * * * *

A. Well, let's see, maybe I am on the wrong sheet. Yes, sir, I have that.

Q. What was the rate of interest on that loan, please, sir?

A. Three percent.

157 Q. And how much was the loan, please, sir?

A. Twenty thousand dollars.

Q. And how much does your record—, what does your record show was put up as security right under there, — anything there?

A. It says collateral was pledged.

Q. On October 16, '51, the one under that.

A. October —, same thing under that, too.

* * * * *

Q. On loan October 16, '51, your loan number 1492.

A. I see now. Thirty-two thousand, United States Treasury bonds.

Q. That is the collateral?

A. Thirty-two thousand, U. S. Treasury.

* * * * *

158 Q. The loan number 1734, October 31, — if you will look, — do you see that there?

A. Yes, sir.

Q. Do you see a five thousand dollar loan there?

A. Yes, sir.

Q. Fifteen days later?

A. Yes, sir.

Q. What does it show that security was?

A. Five thousand U. S. Treasury two and one-half per cent bonds.

Q. Yes. Is that a three per cent loan?

A. Yes, sir.

Q. I ask you to look at loan 1919, — one right there, August 13, '51, — I mean, November 13, '51.

A. Ten thousand dollars, assignment of life insurance.

* * * * *

160 Q. In 1949, your loan number 3943, on September 26, — if you will, please find that sheet?

A. I have it, — says thirty-two thousand dollars U. S. Treasury bonds.

Q. How much was the loan?

A. Ten thousand.

* * * * *

Q. Right under that, it shows another loan on October 4th, about a week later. How much was that?

A. Five thousand.

Q. What does it read right under that?

A. It says collateral securing note for ten thousand.

* * * * *

161 Q. What is the biggest balance he owed in the year '49?

A. September 6th —, September 16th, forty-two thousand.

MR. VADEN: I see.

A. (Continuing) September 27th, either one, forty-two thousand.

Q. Yes. Yes. In the year '51, the next sheet, along in August, October, November, — what is the biggest balance he owed?

A. Forty-Five thousand.

* * * * *

168 MR. VADEN: Now, if the Court please, Mr. Davis has handed me, and I am going to hand them to the jury, three financial statements, all signed by William Epstein, first in February, '45, showing cash on hand twenty thousand dollars, — cash on hand and in banks of twenty thousand dollars, with total assets of one hundred fifty-two thousand dollars, and net worth of one hundred fifty-one thousand dollars.

He has further handed me a financial statement

executed as of December 31, '49, in which Mr. Epstein says he has cash on hand seventeen thousand five hundred dollars, cash in bank of thirty-six hundred dollars, total assets of two hundred sixty-nine thousand six hundred dollars, of which two hundred fifty-seven thousand three hundred is net worth.

He has further handed me financial statement signed by Mr. William Epstein as of January 1, 1952, in which Mr. Epstein says he has cash on hand and in banks, twenty-six thousand dollars, total assets of $484,410.32, of which $428,964.46 is net worth.

* * * * * *

171 (Said photostatic copies of documents were accordingly marked as Collective Exhibit 18 to the testimony of Mr. Davis.)

* * * * * *

174 Q. On the William Epstein bank account, will you please look at February 7, 1948, on the ledger sheet —.

A. February 7, 1948?

MR. VADEN: Yes.

A. Yes, sir.

Q. You show a deposit of that date?

A. Five thousand dollars.

* * * * *

Q. The reason I want to ask you about this particular one, I will ask you whether or not you see on February 7th, '48, in the Kirschner Store account—, do you see any kind of withdrawal on that date?

A. Five thousand dollars.

* * * * *

TESTIMONY OF ARTHUR W. FLANIGAN

DIRECT EXAMINATION
BY MR. HODGES:

* * * * * *

208 Q. What do you do, Mr. Flanigan?

A. I am manager of the Investors Department, Investors Diversified Service.

Q. Whereabouts is it, what city?

A. Minneapolis, Minnesota.

209 Q. Mr. Flanigan, did you bring with you records showing the purchase of some certificates for stock in the name of William Epstein, or maybe first Mrs. Pearl Epstein?

A. Yes, sir.

Q. Bring out savings certificate number 1 F 18 3766, then you have an S-6 certificate, and tell us by whom they were purchased and what they paid on them, and the financial history up there?

A. The F 18 3766 was purchased on December 17, 1936.

Q. By whom?

A. By Pearl Epstein.

* * * * * *

A. That was a fifteen year certificate, savings certificate, and the amount paid in was $1,831.50.

* * * * * *

210 Q. I noticed you don't have the value listed here for '51, is that right?

A. That is right.

Q. Why is that, now?

A. The contract matured and we issued a draft to her on November 19th of 1951.

Q. For how much?

A. In the amount of $2,573.50.

* * * * *

211 Q. You had an S. certificate, — S-6 certificate 100559. Would you start from the beginning on that and trace it on through?

A. That was purchased in the name of Mrs. Pearl Epstein on January 22nd of 1946.

* * * * *

212 Q. What was the amount paid in on this S-6 certificate when it matured on, I think, March 5, '52?

A. The total amount paid in by Mrs. Epstein was $9,568.63. We issued a draft or check on February 7, 1952, for $10,072.81.

Q. Now, back up to the F savings certificate amount, what was the total amount paid in by Mrs. Epstein on that?

A. The total amount paid in on this F certificate was $1,831.50.

Q. All right. That is one that matured December 17, '51, for $2,573.50?

A. That is right.

Q. All right. Now, Investors Diversified Services, Incorporated, in addition to having savings certificates
213 like those here, you also in effect have stock certificates, do you not?

A. That is right, yes, sir.

Q. All right, were any of those purchased?

A. There was a purchase of Investors Mutual share made on January 12th, 1944, in the amount of $2,100.00.

Q. I notice you had down there a subsequent investment accepted July 10, '44?

A. Yes, that was for one thousand dollars.

Q. Now, how much does that make all together on that?

A. Thirty-one hundred.

Q. All right. Were these investments all likewise issued in the name of Pearl Epstein?

A. Yes, sir.

* * * * *

TESTIMONY OF JACK W. RICH

DIRECT EXAMINATION
BY MR. VADEN:

* * * * *

217 Q. Forest Park Apartments. Will you tell us whether or not you sold an interest in that to Mr. Epstein back in '51?

A. Yes, sir, I sold Mr. Epstein and two other gentlemen.

Q. I don't care about the others, but as far as Mr. Epstein is concerned—.

A. I got a total of thirty-nine thousand dollars for the stock in the corporation.

Q. How much was Mr. Epstein's?

A. His was thirteen thousand dollars.

* * * * *

TESTIMONY OF A. R. DAVIS

DIRECT EXAMINATION
BY MR. VADEN:

* * * * *

221 Q. Can you read the January 1, '53, balances there in the record, that is all we are interested in.

Which one do you have there?

A. We have William and Epstein Store.

Q. All right, what is the William Epstein Store balance January 1, '53?

A. That is $1,029.80.

Q. And what is your balance on January 1, '53, on William Epstein?

A. $3,850.67.

* * * * *

222 Q. That is what I say. So the balances you have given us so far are not only the balances of January 1, '53, but that would be the closing balances as of December 31, '52, would it not?

A. That is right.

* * * * *

TESTIMONY OF HERMAN GRUBER

DIRECT EXAMINATION
BY MR. FITZHUGH:

* * * * *

227 Q. And I will ask you whether or not William and Pearl Epstein are connected with that subdivision, that company?

A. Yes, sir, they are partners.

Q. They are also partners. I will ask you whether or not you have brought with you records showing the financial net worth of William Epstein for the years '47 through '52 as reflected on the last day of each of those years?

A. I have, sir.

* * * * *

Q. In other words, it was the amount he had of financial interest in the partnership?

A. Yes, sir.

Q. Yes, sir. December 31, '47?

228 A. December 31, '47, was five thousand dollars.

Q. Now, then, on December 31, '48, what was the amount of his investment?

A. It was the same amount, five thousand dollars.

Q. Five thousand dollars?

A. Yes, sir.

Q. Then on December 31, '49?

A. That was also five thousand.

Q. December 31, 1950?

A. That was $14,535.17.

Q. An increase of ten thousand dollars December 31, '51?

A. That was $12,492.95.

Q. December 31, '52?

A. $10,451.62.

* * * * *

REDIRECT EXAMINATION
BY MR. FITZHUGH:

233 Q. Mr. Gruber, are you related to Mr. Epstein or Mr. Gerber?

A. I am related to Mr. Gerber.

Q. What is the relationship?

A. He and I married sisters. I suppose we are brother-in-laws.

Q. What kind of insurance did he want?

A. He wanted safe burglary insurance.

Q. He wanted safe burglary insurance. And the rate was—, for insuring money in a location of that kind, was terrifically high?

A. Well, I don't remember just what the rate was, but as I remember, it was high, as compared to other locations in other businesses.

234 Q. And you declined to write any?

A. Not because of the rate. I just did not think our company would want to get one hundred and forty or fifty thousand dollars worth of money.

Q. You did not think your company would be interested in writing it at all?

A. No, sir, I did not, for that much money and in that location.

* * * * *

Q. What other insurance did Mr. Epstein carry with you, Mr. Gruber?

A. We had a lot of fire insurance on his stock of merchandise, insurance on other people's property in the pawn shop. We carried a lot of insurance on some of his real estate.

* * * * *

235 Q. Well, you are grateful to him for that business?

A. Naturally.

* * * * *

TESTIMONY OF ERUS BRADSHAW

DIRECT EXAMINATION

BY MR. HODGES:

* * * * *

236 Q. Have you been keeping the books of the Jaffe Dry Goods Store in Osceola, Arkansas?

A. Yes, sir, since January 1, 1950.

Q. Do you have there with you an itemized statement of the partners' capital accounts of the Jaffe Dry Goods Stores?

A. Yes, sir.

Q. Who are the partners in it?

A. Mr. Edward Weiss and Mr. William Epstein.

Q. What is Mr. Epstein's share?

A. Three-fourths.

Q. And Mr. Weiss one-fourth?

237 A. Yes, sir.

* * * * *

Q. All right. Give me the end of '49 then.

A. The end of '49, total capital was $21,802.83, of which Mr. Epstein had $13,401.42.

Q. I see. What about the end of 1950?

A. Total of $21,452.85.

Q. What was Epstein's part of that?

A. $13,226.43.

Q. All right, then, December 31, '51?

A. Total of $18,724.63, and Mr. Epstein's was $11,862.32.

Q. December 31, '52?

A. Total of $17,509.71. Mr. Epstein's was $11,254.87.

Q. December the 31st, '53?

A. '53, the total was $15,398.69.

* * * * *

TESTIMONY OF KEMMONS WILSON

DIRECT EXAMINATION

BY MR. HODGES:

* * * * *

243 Q. What is your occupation, Mr. Wilson?

A. I am a builder, sir.

Q. You reside in Memphis, Tennessee?

A. Yes, sir.

Q. Do you know the defendant, William Epstein?

A. Yes, sir.

Q. I am calling your attention to a financial transaction that you were involved in with Mr. Epstein back in 1952. I believe you put up two hundred and fifty dollars, and Mr. Epstein here put up two hundred and fifty dollars, and another individual put up two hundred and fifty dollars in cash, is that correct?

A. Yes, sir.

Q. Do you remember that transaction? I hand you a check here drawn on Manhattan Branch of U. P. Bank for two hundred and fifty dollars, and ask you whether or not that is the check that Epstein paid into the part-
244 nership of Camp, Epstein and Wilson?

A. It is, sir.

* * * * *

245 A. — Which corporation assumed —, we bought a corporation —, or corporations.

Q. What was the total amount, the figure, I didn't hear it?

246 A. About two and a half million dollars.

Q. You assumed a mortgage —, the corporation you bought assumed mortgages to total the amount of two and a half million dollars?

A. The corporation had the mortgages, yes.

* * * * *

247 Q. I see. Did any of you at the beginning ever put more than the two hundred and fifty dollars cash into the deal?

A. No, sir, as far as I know.

MR. HODGES: I believe that is all.

* * * * *

TESTIMONY OF MRS. WILMA B. BILLINGSLEY

DIRECT EXAMINATION
BY MR. VADEN:

* * * * *

250 Q. What do you do, please, ma'am?

A. I look after the office work for my husband's business.

Q. And what is his business?

A. Billingsley Floor and Blind Company.

Q. Yes, ma'am. And, now, we have subpoenaed you people to bring some records up here relative to some work that was done for Mr. — Mr. Epstein, I believe?

A. Yes, sir.

* * * * *

251 A. We had an order for five permanent awnings.

Q. Yes. When was the order dated?

A. April 26th, '50.

Q. And where were the awnings to be put?

A. 661 East Drive.

Q. And how much were they, Mrs. B°—?

A. $237.66, including the tax.

Q. Yes. Did you get a check for it?

A. Yes, sir.

* * * * *

TESTIMONY OF PAUL L'HEUREUX

DIRECT EXAMINATION
BY MR. FITZHUGH:

* * * * *

253 Q. You have with you certain records that were subpoenaed by the Government in connection with this

Epstein case, original records of the Union Planters Title Guaranty Company.

A. Yes, sir.

* * * * *

255 Q. Do you have a deal relating to 4.69/100ths acres on Highway 51 South?

A. I have a deal here, 4.69 acres, that concerns parts lots 50, 53, 54, 56 to 63, and unsold parts of lots 66, 68, 69, 52, 55, of the Ferguson and Bray —.

Q. All right, that was purchased in —?

A. Yes.

Q. When?

A. In 1950.

Q. By Mr. Epstein and Mr. Jeter—?

A. Just a second. The deed was filed for record on January 27, 1950.

MR. FITZHUGH: Yes.

A. To Mr. Epstein and Mr. Jeter.

Q. How much did he pay for it? How much did Mr. Epstein pay for it?

A. Our policy covers $7,269.50.

* * * * *

257 Q. What other real estate deals did you handle for Mr. Epstein during the years 1949, — '48, '49, 50, '51 and '52?

A. Here is another one here, sale by Curry's to William Epstein and wife, Pearl Epstein, November 16, '51, Lots 3, 4, 5, 6, Block "E", Magnolia Blossom Subdivision.

Q. How much did Mr. Epstein pay in connection with that property?

A. Settlement sheet shows that the purchase price was $1,250.00.

* * * * *

258 A. Here is another one here, Lot 2, Block 2, Ingleside Subdivision.

Q. What date was that?

A. August 2nd, 1951. Real and personal property contract was for twenty-seven thousand.

Q. That is the property known as 1638 Union Avenue, isn't it?

A. Yes, sir.

Q. And what was it?

A. Contract price for both real and personal property involved in that contract was twenty-seven thousand.

Q. And was there a mortgage on the property, and did Mr. Epstein pay the difference between the mortgage and the closing costs there?

A. Yes, they assumed a Home Federal loan in the amount of $9,219.55.

Q. I hand you what purports to be a check of Mr. William Epstein, $14,950.00—.

259

* * * * *

Q. All right, now what other transactions—, what other transactions did you handle for Mr. Epstein?

A. Let's see what this is. There is another file, property in Arkansas, George Randolph and wife, and Wassell Randolph and others to—

* * * * *

260 Q. And how much was the consideration for that property, Mr. L'Heureux?

A. Let me see if I can find that settlement sheet. I don't find the settlement sheet in here. Let's see what it is. Title policy shows it covering $15,500.00.

Q. O. K. And that was the consideration for—, what was that date?

A. September 28, '49.

* * * * *

261 A. Here is a contract of sale dated October 21, '49, between William Epstein and Jeter, H. H. Jeter, sell-
262 ers, to a W. S. Cockerham.

Q. All right, what is the consideration?

A. Eighty dollars per front foot, which is the exact price to be contingent upon a survey; two thousand dollars cash.

* * * * *

Q. What does this relate to, now, what property?

A. This relates to property purchased from Mitchell and wife to William Epstein and wife, Lot 22 and West half of Lot 23, Block 27, West Dixie Heights Subdivision, five hundred dollars.

* * * * *

263 Q. I will hand you—, what was the down payment on that?

A. The earnest money was two hundred dollars; amount to purchaser to close—, at time of closing, was $1,335.96.

* * * * *

264 Q. You don't have your records on that 1383-1385 Gold Avenue?

A. I don't think we—, we looked.

Q. I hand you two checks that might refresh your memory about that, totaling $583.15, payable to your company, —one for $483.15 is payable to you, Union Planters Title Guaranty Company, and $100.00 to Block Realty Company.

Do you recall that transaction?

A. No. Let me see if there is one here. We had one of $500.00 I believe. The amount which is needed at time of closing was $483.15.

* * * * * *

TESTIMONY OF LAWRENCE MASON

DIRECT EXAMINATION
BY MR. VADEN:

* * * * *

268 Q. What sort of work are you engaged in?

A. I am a reporter for Dun & Bradstreet, Incorporated.

* * * * *

273 Q. Now, I will ask you whether or not this is the business of Dun & Bradstreet, the reporting of credit information to their subscribers?

A. We are recognized, I think, as such.

Q. Yes. And your job is to get the information?

A. Yes, sir.

* * * * *

276 (Said photostatic copies of documents were accordingly marked as Collective Exhibit 1 to the testimony of Mr. Mason.)

* * * * *

TESTIMONY OF FRED P. CAWEIN

DIRECT EXAMINATION
BY MR. VADEN:

* * * * *

281. Q. And what do you do, sir?

A. Well, for fifty-five years, until November 1st, —I mean, until April 1st, I was employed by Dun & Bradstreet. I retired on April 1st.

* * * * *

282 Q. I will ask you, please, to look at this paper I am handing you and see whether or not you fixed up or had anything to do with the report on a Mr. William Epstein, who had a business down on Beale Street?

A. Yes, sir, I made that report.

* * * * * *

284 A. (Continuing) But this information was obtained by a personal call at his place of business.

Q. I don't know, —do you happen to have a financial statement on that one? Do you see one?

A. Yes, sir, February 2, 1945.

Q. And if that is in that report, with your code number on it, the financial statement at that time was on file with Dun & Bradstreet, is that right?

A. That is right.

* * * * * *

285 (Said photostatic copy of document was accordingly marked as Exhibit 1 to the testimony of Mr. Cawein.)

* * * * * *

TESTIMONY OF CHARLES D. JOHNSTON

DIRECT EXAMINATION
BY MR. VADEN:

* * * * * *

287 Q. What sort of work do you do?

A. I am a credit investigator for Dun & Bradstreet.

* * * * *

290 THE COURT: Objection overruled.

(Said photostatic copy of document was accordingly marked as Exhibit 1 to the testimony of Mr. Johnston.)

Q. Well, now, take this back, if you will, please, sir, and tell us what the state of that financial statement is, and whether or not it indicates it was signed by Mr. William Epstein?

A. Yes, sir, it was signed by William Epstein. The date of it is December 31, '46.

* * * * *

TESTIMONY OF H. H. GREEN

DIRECT EXAMINATION
BY MR. FITZHUGH:

* * * * *

295 Q. I will ask you to state whether or not you did some business for Mr. William Epstein, the defendant here, back in November, '51, is that correct?

A. Correct.

Q. What kind of work was it, electrical?

A. Electrical work.

Q. What property was that?

A. On Decatur Street.

Q. Property owned by him?

A. Yes, sir.

Q. —On his property. And I hand you a check payable to Green Electric Company, purportedly signed by William—

296 MR. WILL GERBER: Five hundred and some-odd dollars.

MR. FITZHUGH: Five hundred sixty dollars.

MR. WILL GERBER: No objection to the introduction, then, it is O. K.

Q. All right, that is check given you in payment for electrical work?

A. Yes, sir.

* * * * *

TESTIMONY OF CHARLES E. PRESCOTT

DIRECT EXAMINATION
BY MR. HODGES:

* * * * *

298 Q. You sold the corporation off, and to whom did you sell it?

A. There was five of them bought it from the corporation.

Q. One of them the defendant Epstein, William Epstein, on trial here today?

A. Yes, sir.

Q. Do you have a copy of that contract where you sold stock in the corporation?

A. Yes, sir.

Q. Let's see it, please, sir.

This is contract for sale of corporate stock, entered into on the 28th day of December, '50, —is that the date?

299 A. Yes, sir.

Q. That is the date up here at the top?

A. Yes, sir.

Q. And various parties buying interests, Harry Bloomfield, twenty-five, David L. Hutkin, twenty-five, William L. Epstein, sixteen and two-thirds per cent, is that correct? Is that correct?

A. Yes, sir.

Q. Nat Epstein, sixteen and two-thirds, Nat Krichter, sixteen and two-thirds per cent?

A. Yes, that is right.

Q. What was the total consideration for the sale of your stock?

A. Twenty-five thousand dollars.

* * * * * *

Q. What would that roughly make Mr. Epstein's share be on that?

A. I don't know, according to the money—, what sixteen and two-thirds would be.

Q. Make it roughly, in round figures, about forty-two hundred dollars?

A. I imagine it figures about that.

* * * * * *

TESTIMONY OF JAMES H. OZMENT, JR.

DIRECT EXAMINATION
BY MR. HODGES:

* * * * * *

303 Q. Where do you live? What business are you in?

A. Dyersburg, Tennessee; automobile business.

Q. Do you sell—you have got a Buick agency up there?

A. Yes, sir.

Q. Can you tell us whether or not back in December—, I think December 21, '50, you sold a Buick automobile to William Epstein for $4,560.50?

A. That is right, yes, sir.

* * * * * *

TESTIMONY OF H. H. JETER

DIRECT EXAMINATION
BY MR. HODGES:

* * * * * *

305 Q. Can you tell us whether or not back in 1951 you had occasion to have some business dealings with Mr. William Epstein?

A. I did.

Q. The defendant here today?

A. Yes, sir.

Q. (Continuing) —Involving in particular 4.69 acres of land on U. S. Highway Number 51 South in Shelby County, Tennessee?

A. Yes, sir.

Q. All right. Did you as the partner of Mr. Epstein jointly acquire that deal—, or an undivided half interest in that, in effect?

A. Yes, sir, we did.

306 Q. What was paid for that land?

* * * * *

A. Six thousand and something.

Q. $3,673.65. That is what each of you paid for the land?

A. I think that is right. I have got the sheets.

* * * * *

Q. And then Mr. Epstein later on in '52 paid a man named Lacey Dix, dirt contractor, four hundred dollars for grading this land off, is that right?

A. Right.

Q. And you likewise paid that sum?

A. Yes, sir.

307 Q. In other words, the total grading bill was eight hundred dollars?

A. Eight hundred dollars.

* * * * *

309 Q. Get the notes out and let's take a look at what the total consideration is you received when you sold this, the partners?

A. To Mr. Cockerham, you said?

MR. HODGES: That is right.

A. All right.

Q. That is whom you sold it to in '49?

A. Well, it is right there. That is the settlement sheet for it.

Q. All right. It shows property purchased by W. S. Cockerham from William Epstein and H. H. Jeter, November 2, '49. All right. Purchase price, 546.1 feet, —546.1 feet at $80.00 per foot, total $43,688.00. That is the total purchase price you all sold it; half that went to you and half to Mr. Epstein.

* * * * *

TESTIMONY OF ALLEN WOOD WINKLE

DIRECT EXAMINATION
BY MR. VADEN:

* * * * *

311 Q. Who are you with, Mr. Winkle?

A. Russell Reeves Company.

Q. And what sort of business is that, please?

A. Automobile business.

Q. Any particular brand?

A. Oldsmobile.

Q. I will ask you whether or not in 1949 you had occasion to sell a car to Mrs. William Epstein, 661 East Drive, Memphis, Tennessee?

A. Yes, sir.

* * * * *

312 Q. How much was the total cash price?

A. $2,633.43.

Q. Was the company paid for the car?

A. Beg your pardon?

Q. Did you receive payment for the car when you sold it?

A. Yes, sir.

* * * * *

TESTIMONY OF HUGH M. ADAMS

DIRECT EXAMINATION

BY MR. FITZHUGH:

313 Q. Will you state your name, please?

A. Hugh M. Adams.

Q. You are in the real estate business?

A. That is right.

Q. I ask you whether or not back in July, 1951, you had occasion to handle a real estate transaction for William Epstein, the defendant?

A. I did.

314 Q. And I hand you a purported photostat of a check which appears to be a check for a thousand dollars—.

MR. WILL GERBER: It is O. K.

Q. (Continuing) —of a William Epstein, and ask you what that represents.

A. That was earnest money.

Q. On this property?

A. Yes.

Q. Located at 1638 Union, wasn't it?

A. That is right.

* * * * *

Q. What was the total sales price of the property that he purchased?

A. Twenty-seven thousand, even.

* * * * *

TESTIMONY OF LOUISE B. BYRNE

DIRECT EXAMINATION

BY MR. VADEN:

* * * * *

317 Q. Thank you, ma'am. And who are you with, Mrs. Byrne?

A. The Home Federal Savings loan department.

Q. Yes. You are in the loan department over there?

A. I am.

* * * * *

Q. Yes. Now, will you tell us, if you will, please, —in the first place, who was the loan originally made to?

A. He ry Rosenstein.

Q. Yes. And will you tell us whether or not it was later taken over by William Epstein and wife, Pearl?

A. It was. We were notified on August 2, 1951.

* * * * *

318 Q. Will you please tell us what amount, if any, was paid on the principal part of your loan as of August—, I mean, from August to December, 1951?

A. Let's see, the loan was originally $11,500.00, and at the time that Mr. and Mrs. Epstein took it over the principal balance was $9,270.59.

Q. Yes. Now, I want to go into the payments, if you will.

A. All right.

* * * * *

Q. So, then, in the meantime, they would have paid $263.80, is that about it?

A. Yes, that is right.

* * * * *

319 Q. How much did they pay in '51 on the interest?

• • • • •

A. Interest would be $190.95.

• • • • •

Q. From August through December, I believe, and they paid five months?

A. $139.25.

• • • • •

320 Q. In 1952, do you have the payments that were paid on principal in '52?

A. Well, let's see. Balance end of '51, $9,006.79. At end of '52 it was $8,350.84. So they would have paid $655.95 in principal in '52.

• • • • •

A. $435.00 interest.

• • • • •

Q. How much escrow payments in 1952?

A. $334.20.

Q. And ten ninety-five—, would be about fourteen twenty, or fourteen thirty, wouldn't it?

321 A. $1,425.60.

Q. All right. That was paid in on the Union Avenue property in the year 1952?

A. Yes, sir.

• • • • •

TESTIMONY OF ROY M. SCOTT

DIRECT EXAMINATION
BY MR. HODGES:

• • • • •

324 Q. How much did he pay and how many shares did he have?

A. Q. & S. Realty Company, Mr. Epstein purchased

one hundred twenty-five shares of stock for twelve thousand five hundred dollars, and also loaned the corporation sixty-eight hundred dollars, for which he took a note.

325 Q. On that same day, did he purchase the stock?

A. Same date he purchased Q. & S. Storage and Transfer Company stock, fifty-two shares for fifty-two hundred dollars.

Q. Yes. I say he loaned them the sixty-eight hundred dollars the same day he purchased this one hundred and twenty-five shares of stock?

A. That is right.

* * * * *

326 A. All of the assets of the corporation were distributed at that time. Mr. Epstein received United States Treasury bond that had a market value of $5,037.50. The accrued on that bond was $46.88. Mr. Epstein owed them an—, owed the corporation an account for storage and other charges, $254.55, which was credited. He received the corporation's check for $1,934.99. The four items making a total of $7,273.92.

Q. That is what he netted from the sale of stock?

A. That is what he netted from the Q. & S. Storage and Transfer Company.

* * * * *

TESTIMONY OF EDWARD LEVINE

DIRECT EXAMINATION
BY MR. VADEN:

* * * * *

333 Q. Do you know a William Epstein?

A. Yes, sir.

Q. Do you know some property owned by him at 661 East Drive here in Memphis?

A. Yes, sir.

* * * * *

Q. What was the nature of it? What was the general nature of the work? Don't care about the details.

A. We remodeled the interior of the house.

Q. Did you get paid for it?

A. Yes, sir.

* * * * *

335 Q. That is all 661 East Drive. And if my figures are correct, that shows on here $25,668.25. I don't know whether you have that total on it or not.

A. That is right, I have the total on it.

* * * * *

Q. Now, I will ask you whether or not, Mr. Levine, you had occasion to do some additional work for Mr. William Epstein in the year '50,—I believe it has to do with repairs on some buildings on 122 Beale?

A. That is right.

* * * * *

336 Q. Is that all you were paid for repair on that building, 122 Beale?

A. Yes, sir.

Q. —By Mr. Epstein?

A. Yes, sir.

Q. I show that $900.60, or I think—, or I believe it is $1,000.60, —is that right, about?

A. One thousand dollars and sixty cents. Yes, sir.

* * * * *

Q. Yes, sir. Now, I will ask you whether or not along in 1949 you did not have occasion to—at the request of Mr. Epstein, to look into the Old Banner Laundry Building down on—, I believe on Hernando, isn't it?

A. Yes, sir, that is right.

• • • • • •

339 Q. So the difference of one hundred and seventy-five, he just gave you a check, and you gave it to the Chandler man?

A. That is right. I had hired Chandler.

• • • • • •

TESTIMONY OF MISS KATHERINE McCALEB

DIRECT EXAMINATION
BY MR. FITZHUGH:

• • • • • •

340 Q. I will ask you to state whether or not the State Mutual wrote the defendant, William Epstein, a policy of life insurance in recent years?

A. Yes, sir.

• • • • • •

Q. Will you state to his Honor and the jury the amount of premiums on this policy, —which was in the sum of twenty thousand dollars, wasn't it?

A. Yes, sir.

• • • • • •

341 A. In '49 was $841.40.

Q. Paid by Mr. William Epstein?

A. Yes, sir.

Q. 1950?

A. $858.00.

Q. 1951?

A. $854.00.

Q. 1952?

A. $850.00.

• • • • • •

TESTIMONY OF LACEY DIX

DIRECT EXAMINATION
BY MR. FITZHUGH:

* * * * * *

343 Q. I ask you whether or not you had some—, made some grading improvement and excavation in '52 on property owned or half of property owned by Mr. William Epstein?

A. Yes, sir, I did.

* * * * *

Q. What was the cost of improvement, grading improvements?

A. The cost was eight hundred dollars.

* * * * * *

TESTIMONY OF CATHERINE C. BURT

DIRECT EXAMINATION
BY MR. HODGES:

* * * * * *

346 Q. Mrs. Burt, you were subpoenaed up here and requested to bring information relating to two policies, Epstein policies. The first one is number 882907, issued January 21, 1929, on the life of William Epstein. Do you have that one?

A. Yes.

Q. What is the amount of that one, and who is the beneficiary?

* * * * * *

A. Five thousand dollars.

* * * * * *

347 Q. During the years '48 through '51, tell us what the annual premium was?

A. $146.90.

• • • • • •

348 Q. Now, you have got another policy there, number 10827089?

A. Yes, sir.

• • • • • •

Q. During the years '48 through '52, the annual premium every year $108.05?

A. Yes, sir.

• • • • • •

TESTIMONY OF GUY BOYER

DIRECT EXAMINATION
BY MR. VADEN:

• • • • • •

350 Q. By whom are you employed?

A. Prudential Insurance Company.

• • • • • •

351 Q. How many policies do you have?

A. Four; four policies.

Q. Four policies. What is the amount of them?

A. Face amount of the four, twenty thousand.

• • • • • •

352 Q. So we will agree from '52 back through '48, on the whole twenty thousand dollars, Prudential was receiving—?

A. I did not add those up, Ed; I could have.

Q. (Continued)—About $654.40, is that about right?

A. That is about right, yes, sir.

Q. Each year?

A. That is right.

• • • • • •

TESTIMONY OF W. M. EMERSON

DIRECT EXAMINATION
BY MR. HODGES:

* * * * *

355 Q. Get out file number 34555 showing purchase by William Epstein from Mildred Miller of Decatur Street property.

A. Yes, sir.

Q. What is the date of purchase?

A. The deed said August 15, '51.

Q. I will hand you a five hundred dollar check payable to J. Miller, and ask you if that is not down payment on that property? The date looks like July 27, '51.

A. Yes, sir, this is earnest money on the Decatur Street property.

Q. I likewise hand you debit showing balance—, on the account of William Epstein, August 13, '51, $10,039.25, Commerce Title Guaranty Company, and ask you if that is not the balance?

A. That is the same figure reflected by settlement sheet as to amount to purchase.

* * * * *

356 Q. Payment of this land was by William Epstein's check on June 28, '52, for $685.21. I hand you a check for $685.21 and ask you if you can identify that.

A. That corresponds with the settlement sheet, yes, sir.

* * * * *

358 Q. What was the total purchase price of those four lots?

A. The total purchase price of those four lots as reflected by the settlement sheet was four thousand dollars.

• • • • • •

TESTIMONY OF MRS. IRVING NATHANSON

DIRECT EXAMINATION
BY MR. FITZHUGH:

• • • • • •

360 Q. I ask you whether or not you brought the books out at Alan's Floor Covering, and whether or not these records show a sale in '50 to one William Epstein, the defendant here?

A. Yes, sir, they do.

Q. What did the sale cover?

A. Carpeting and padding.

Q. Is that one carpet with a pad underneath?

A. Yes, sir.

Q. And what was the cost of that carpet?

A. $2,290.70.

• • • • • •

361 Q. This carpet was placed in his home?

A. Yes, sir.

• • • • • •

TESTIMONY OF AUVERGNE BLAYLOCK

DIRECT EXAMINATION
BY MR. VADEN:

• • • • • •

368 Q. All right, as an example, what was the contract price for building the Barton Street property? That would be number—

A. What date was that?

Q. November 7, '51.

A. November 7, 1951. We had a contract to construct a duplex on Barton Street, $5,660.00.

Q. All right, sir. Now, what was the contract price on the building—, maybe they were all the same address, I don't know, —that Olympic Street stuff, —fifty-six—, seem to be fifty-six sixty?

A. There was a separate contract, sir, on each one of those duplexes, the same price of $5,660.00, and a separate contract being drawn in each one of them.

* * * * *

371 Q. They were all built?

A. They were all built; the construction was completed.

* * * * *

374 Q. Come down the list, if you will.

A. 10-18-51, Paid $1,833.33 by Mr. Epstein, re 1902-04 Farrington.

375 The next entry of payments is 11-7-51, Paid $1,833.33 by Mr. Epstein, first payment re 1510-12 Barton.

* * * * * *

A. Then 1-2-52, Paid $3,666.66 by William Epstein, his check number 362, second payment on Barton and Farrington.

* * * * *

Then on 2-4-52, Paid $3,986.68 by William Epstein, his check number 28, third payment on Barton and Farrington.

* * * * *

Q. Have you got a total on that whole building contract out there? How much did it come to?

376 A. Total on all this total building, two thousand eight hundred—, I mean, $28,360.00. Contract payment was

$28,300.00. There was an additional $60.00 for grading on Olympic.

* * * * *

TESTIMONY OF E. H. GODWIN

DIRECT EXAMINATION
BY MR. HODGES:

* * * * *

382 Q. Mr. Godwin, back in February, '51, tell us whether or not you had occasion to do some business with the defendant, William Epstein here?

383 A. Yes, sir; I sold him one set of notes.

* * * * *

Q. And how much did he pay you for that? Nothing had been paid on this note, had it? This, —these two notes—

A. No, sir.

Q. (Continuing) Total six thousand dollars, —these two notes total six thousand dollars.

384 How much did he pay for these notes?

A. Forty-five hundred dollars.

* * * * *

TESTIMONY OF TROY MULLINS

DIRECT EXAMINATION
BY MR. HODGES:

* * * * *

386 Q. Mr. Mullins, did you purchase some property back in February of '51, February 6th, a home at 564 Mosby?

A. Yes, sir.

* * * * *

387 Q. All right, how much did you pay for this house?

A. Paid seven thousand.

* * * * *

TESTIMONY OF TOM GOODEN

DIRECT EXAMINATION
BY MR. FITZHUGH:

394 Q. Are you Tom Gooden?

A. Yes, sir.

Q. I will ask you to state whether or not back around November first, 1951, you purchased a piece of property here in Memphis from the defendant, William Epstein?

395 A. Yes, sir.

Q. How much did you agree to pay him?

A. Four thousand five hundred dollars.

Q. How much did you pay down? Did you pay a cash payment down on the property?

A. Three hundred dollars.

Q. And how much did you agree to pay each month after that?

A. $35.45.

Q. Have you paid that each month since November 1, 1951?

A. Yes, sir.

* * * * *

TESTIMONY OF DIAMOND BARRETT

DIRECT EXAMINATION
BY MR. FITZHUGH:

* * * * *

396 Q. I will ask you to state, Diamond, whether or not on or about September 8, '51, you purchased a piece of property here in Memphis from the defendant, William Epstein?

A. Yes, sir.

397 Q. Did you and your wife purchase that property?

A. Yes, sir.

Q. How much did you agree to pay for it?
A. Forty-five hundred dollars.

• • • • • •

Q. How much have you paid monthly since then?
A. Thirty-five dollars, plus six per cent interest.
Q. Where is it located?
A. 643 Decatur, —645, —Between Jackson and Decatur.

• • • • • •

TESTIMONY OF JOHN T. DWYER

DIRECT EXAMINATION
BY MR. HODGES:

• • • • • •

399 Q. What is your occupation, Mr. Dwyer?
A. Commissioner of Public Service, City of Memphis.
Q. Memphis, Tennessee?
A. Yes, sir.
Q. Back in '52, tell us whether or not you had a duplex constructed on a lot located at 2143-45 Eldridge, here in Memphis, Tennessee?
A. Yes, sir.
Q. That was constructed by the W. F. Jameson Construction Company?
A. Yes, sir.
Q. This duplex you were having built there was being built for rental purposes, is that right?
A. Yes, sir.
Q. How did you have that lot financed?
A. Through a loan through E. H. Crump and Company for five thousand dollars, and the additional
400 money I borrowed from Mr. Epstein.

• • • • • •

Q. All right. And you gave E. H. Crump a first mortgage on the property for it?

A. Yes, sir.

Q. All right. The balance of the money, roughly fourteen hundred thirty-one dollars, you say that was obtained as a loan from the defendant, William Epstein?

A. Yes, sir.

* * * * * *

401 Q. Was any security or collateral given for this money that Epstein loaned you, the fourteen hundred thirty-one dollars?

A. No.

Q. Was any promissory note executed evidencing that money?

A. No, sir.

Q. Was any interest charged for this money?

A. No, sir.

* * * * *

402 Q. What time—, that was November, was it?

A. Yes, sir.

Q. Prior to that time your occupation was—?

A. Oh, Police Department, Assistant Chief of Police.

* * * * *

TESTIMONY OF ANNA COLEMAN

DIRECT EXAMINATION
BY MR. VADEN:

* * * * *

410 Q. —Whether or not you bought any property along in September, '51, from Mr. Epstein for forty-seven hundred fifty dollars?

A. Yes, sir.

Q. I believe you paid ten per cent down, four hundred seventy-five dollars?

* * * * *

Q. How much have you been paying each month? How was you to pay out the balance of the forty-seven hundred fifty dollars?

A. $34.69 a month.

* * * * *

TESTIMONY OF HAL A. HALL

DIRECT EXAMINATION
BY MR. HODGES:

* * * * *

412 Q. Now, Hal, tell us whether or not back in '52 did you purchase some property at 1383-85 Gold Avenue here in Memphis, Tennessee?

A. I did.

Q. Did you purchase that in your name or your wife's name?

A. I did.

Q. From whom did you purchase it?

A. Mr. William Epstein and wife.

Q. Mr. William Epstein and wife?

A. Yes, sir.

Q. How much was the total purchase price on that property?

A. Total was nine thousand, seven fifty.

Q. $9,750.00?

* * * * *

TESTIMONY OF BERTHA THOMAS

DIRECT EXAMINATION
BY MR. FITZHUGH:

* * * * *

416 Q. I will ask you whether or not you and your son, Sol Clayborn, on or about November 5, '51, purchased a duplex in Memphis?

A. Well, we did.

Q. From William Epstein?

A. Yes.

Q. Yes, you did. And how much did you agree to pay for it?

* * * * *

A. Forty-five hundred dollars.

Q. How much did you pay down?

417 A. Three hundred.

Q. And did you execute some notes, sign some notes and turn them over to him?

A. Yes, sir.

Q. How much were they?

A. $35.45 a month, you know, —15th of each month.

* * * * *

TESTIMONY OF COLUMBUS NATHAN

DIRECT EXAMINATION
BY MR. VADEN:

* * * * *

419 Q. How long have you been working for Mr. William Epstein?

A. I would say around about twenty years.

Q. And what sort of work do you do out there?

A. Houseboy.

* * * * *

Q. Now, Columbus, back there in '48, '49, '50, '51, and '52, all those years along in there, how many servants did Mr. Epstein have out there around all the time?

A. It was two, and three, including me.

• • • • •

420 A. Cook, maid, and nurse.

• • • • •

Q. Well, along up in '49, '50, '51, '52, around in those years, in that particular period, what were you making a week at that time?

A. Seventeen.

Q. Seventeen. And then do you know whether or not 421 along in '52 it went up to twenty dollars a week?

A. Yes, sir.

Q. Twenty. Let me ask you this. In addition, you get your food and a place to live?

A. Well, I gets a few clothes.

Q. You do eat out there, too?

A. Yes, sir.

• • • • •

Q. What was she paid as cook, if you know?

A. I think it was around seventeen.

Q. You think it was around seventeen. Have you ever been around there when the other colored women were paid off?

A. Yes, sir.

Q. About what were they getting in money?

A. Around seventeen.

• • • • •

TESTIMONY OF HUBERT A. NORRIS

DIRECT EXAMINATION
BY MR. HODGES:

• • • • •

438 Q. Tell us what does your job entail as a Special Agent with the Intelligence Division of the Internal Revenue Service?

A. Well, it entails generally the investigation and enforcing of all the Internal Revenue laws, with the exception of Alcohol and Tobacco Tax.

* * * * *

439 Q. Mr. Norris, tell us the education advantages you have had to fit yourself for the duties that you perform as a Special Agent of the Internal Revenue.

A. I am a graduate of the University of Mississippi, Business Administration. And since then most of my work and occupation has been in the accounting field, including service with the Army, and then ten years employment as a Special Agent with the Treasury Department.

Q. You say while at the University of Mississippi you took accounting courses there?

A. Yes, sir.

Q. And what did you do in the Army, while you were in the Army?

440 A. I was sent to Detroit, Michigan, to audit and negotiate and work on Government contracts, Army contracts with General Motors, Ford and Chrysler Corporation.

* * * * *

Q. I see. Now, you stated you have been with the Intelligence Division of the Internal Revenue for ten years?

A. Yes, sir.

Q. Where have you been stationed during those ten years, Mr. Norris?

A. At Memphis.

Q. Here in Memphis the whole time?

A. Yes, sir.

Q. Now, during the ten years you have been employed

in this capacity, tell us whether or not you had worked up many or few cases of this nature you are testifying about here today?

A. Yes, sir, there have been several others, numerous...

* * * * * *

441 Q. Getting down to what is involved here, Mr. Norris, you were assigned to work up this case?

A. I was assigned to look at the papers of the Revenue Agent and determine whether or not it should be investigated.

Q. You were determining to find out what the facts were?

A. Yes, sir.

Q. Just start at the beginning and tell us when your investigation started, and who were the cooperating agents in the investigation with you.

A. Well, this matter first came to my attention along about October 14, 1953, and that is when the Revenue Agent Huddleston had been doing some work on the matter, and he came to me, and I spent two or not over three hours
442 going over his papers and findings that he had at that time, and from my study of the information he had it was my opinion and I did recommend and did decide to conduct a further investigation.

MR. HODGES: I see.

A. (Continuing) And I did have his work products, and I used that, and then continued to conduct an investigation.

* * * * * *

443 Q. Now, when you investigated the case to determine what the facts were, you can tell us whether or not in this case during that investigation did you have occasion to

hold conferences with the defendant and/or his representatives?

A. Yes, sir, there were numerous such conferences.

• • • • •

A. Well, by eliminating the details of arranging the conferences, and so forth, I know that a conference was had on October 19—, on November 19, 1954, with Mr. Epstein.

• • • • •

444 A. (Continuing) And one of his employees, a public accountant, Mr. Summers, accompanied him at that meeting.

Q. That is Mr. Summers who testified here on the stand previously, is that right?

A. Yes, sir. And the other people there were Revenue Agent Raines and myself.

• • • • •

Q. Under Internal Revenue regulations, where an accountant represents a man, does the Department reqqire the furnishing of power of attorney stating that they do represent this man?

A. That is the policy. We will—, at least, I will, anyway, go ahead and deal with them the first time until they have an opportunity to do that.

Power of attorney was submitted at that meeting by Mr. Jones and the defendant.

Q. Do you have that power of attorney here with you?

A. Yes, sir.

• • • • •

MR. HODGES: All right. (Reading)

"Power of Attorney

"State of Tennessee

"County of Shelby

"Know all men by these presents, That I, William Epstein, residing at Memphis, Tennessee, do hereby make, constitute and appoint Homer K. Jones, Certified Public Accountant of Memphis, Tenn., my true and lawful attorney in fact, to appear before and confer with the proper officials of the Bureau of Internal Revenue, Treasury Department, with reference to my Federal Income, Excess Profits or other taxes . . ."

• • • • • •

446 Q. Yes, sir. Is Homer K. Jones registered with the Treasury Department?

A. Yes, he is authorized to represent clients before the Treasury Department.

Q. And at that time, Mr. Epstein acknowledged that he had executed this power of attorney in this conference you held, is that correct?

447 A. That was submitted jointly by them at that time.

• • • • • •

Q. Maybe I had better—, I think maybe you are right. I won't read this one to the jury, likewise on the form 448 of Homer K. Jones, Power of attorney signed by Pearl Epstein on apparently the same date. It was handed in at the same time, is that correct?

A. Yes, sir.

• • • • • •

Q. Now, without going further into the detail of that conference at this time, let's pass on. Well, so we will relate everything chronologically, when was the next meeting held with the taxpayer, the defendant, now, William Ep- 449 stein, or his representative?

A. Well, on November 22nd, Mr. Jones—

Q. That is November 22, '54?

A. Yes, sir.

• • • • • •

A. (Continuing) On November 22, '54, Mr. Jones came and took all records of the defendant that were in my possession. I turned them over to Mr. Summers on that date, and received a receipt. That is the next contact I had with his counsel or his representative.

* * * * *

450 Q. All right, go ahead.

A. There was another impromptu conference with Mr. Jones on January 24, 1955. There was a conference with Mr. Jones occurring in two parts on March 21st and March 22nd, '55.

* * * * *

Q. Oh, excuse me. I have it straight. Just in a general way what were the nature of these conferences you were holding over this period of months with Mr. Homer K. Jones?

A Well, that particular one was where we were comparing figures. We were comparing our net worth results and other figures used in arriving at the defendant and his wife's corrected net income.

Q. I see. During this March conference with Mr. Homer K. Jones, did you have occasion to copy down some of his figures he had been working up over this period of months as to the defendant's net worth, as to his cash on hand, and as to his other assets?

451 A. Well, we compared all of our figures. He showed me all the figures he had, and I did likewise. I made notes of his figures, and particularly where there was any difference in figures.

Q. All right, now, when was the next conference held?

A. Well, there was another informal talk with Mr. Jones, and there were several of that nature, but I will skip over that.

On April 15, '55, Mr. Jones furnished me—, I had some little meeting with him,—he furnished me a lot of Mrs. Epstein's cancelled checks for the year 1949.

MR. HODGES: I see.

A. (Continuing) On June 21, '55, there was a conference held in Nashville and new powers of attorney submitted authorizing Mr. Jones and also Attorney Eugene Bernstein to represent Mr. Epstein and his wife.

Q. This was in June, '55?

A. June 21st.

* * * * *

452 Q. Now, what happened after that? Let's go on, take it all,—I want the chronology.

A. Well, that conference was actually arranged for the benefit of the defendant, giving him the opportunity to offer any further information or explanation that he desired. However, since he did not appear at that meeting, and it was my understanding from Mr. Jones and Mr. Bernstein that he was too sick to appear at the meeting—.

MR. HODGES: Yes.

A. (Continuing)—Then we arranged another conference in order that he be given a further opportunity to attend a meeting, if he wanted to, and such a conference did take place on July 14th, '55.

MR. HODGES: Yes.

A. (Continuing) Now, new powers of attorney were submitted in the case that this authorized Mr. Jones and Mr. Bernstein and also Mr. William Gerber to represent Mr. and Mrs. Epstein.

* * * * *

456 Q. Were any more conferences held after that July 21st conference in '55?

A. Yes, there were, as a result of what occurred in that July 14th, '55, in Nashville,—Mr. Epstein was there, and he did furnish information.

MR. HODGES: I see.

A. (Continuing) I know he made statements—

MR. HODGES: I said 21st. I meant 14th.

A. (Continuing) And that statement was, or his explanations were taken down by a stenographer. They were translated and typed, and the typed statement with copies were sent to me here in order to give him the opportunity or let him read it over, if he desired, and if he wanted to sign it we would give him a copy, and if he did not want to sign it, we wouldn't give him a copy, which is another one of our rules. And in that connection, Mr. Gerber and Mr. Bernstein, and Mr. Jones, and also I think Mr. Deutsch was in on some of this.

* * * * *

457 Q. Wait a minute. You are talking about conference that was held after the conference of July 14th, aren't you?

A. That is correct.

Q. What date was that subsequent to this you are talking about, now?

A. That takes place on September 8th and 9th, 1955.

Q. All right. What was the purpose of this conference?

458 A. The purpose of that conference was to afford Mr. Epstein an opportunity to read his statement, make any corrections, such as typographical errors and ordinary matters of that type, and sign it and give him a copy of it.

Q. And this is the statement that was taken down I

believe you stated at the July 14, '55, meeting as what he said at that time?

A. That is correct.

Q. All right, what happened then? Go ahead.

A. The attorneys, along with their accountants, do come to my office in response to telephone call that I made to one of them letting them know the statement was there, and I gave them the statement for their study and examination, and Mr. Epstein was not with them, —they read the statement, and—

Q. Who were the attorneys who came to your office? I did not understand you to say.

A. All right, Mr. Bernstein, Mr. Gerber, and Deutsch, and Mr. Jones.

* * * * * *

459 A. But anyway, he did not sign the statement. The whole substance was they wanted to change so much in there that was not error; it was wordings and statements that Mr. Epstein had said.

* * * * * *

462 Q. Now, let's start back, now that we have got the chronological picture here which takes up about ten months, —start back at the beginning conference back in November, '54, that you had with Mr. Homer K. Jones, and tell us what happened at that conference.

A. Well, the November conference was with Mr. Jones and Mr. Epstein.

* * * * * *

465 A. (Continuing)—Of a conference with Mr. William Epstein and counsel in room 212 Falls Building, Memphis, on Friday afternoon, November 19th, starting on or about two P.M. Present at this meeting were Mr. William Epstein, Mr. Homer K. Jones, C. P. A., and Mr. W. C.

Summers, public accountant employed by Mr. Jones, Revenue Agent Hunter Raines, and myself. After the usual preliminary introductory remarks and conversation, I told him—, which is Mr. Epstein, —that his income tax returns for the years '48 through '52, along with information assembled by Revenue Agent Cameron D. Huddleston, had been assigned me for further study in order to ascertain whether or not both criminal and civil violations were involved. —In order to ascertain—, well, let's see, —were
467 involved in connection with these tax returns. I also told him and explained in detail his rights provided by the Fifth Amendment of the Constitution, that he did not have to furnish any values on this thing or do anything he did not want to at this meeting or any other time, and that he had a perfect right to refuse to answer any questions or furnish any explanations, and that it was legally proper for him to get up and walk out of the meeting without saying anything, if he wanted to.

* * * * *

468 The meeting at this point was mostly questions by Mr. Jones and Mr. Epstein of me, and in answering their questions I also asked Mr. Epstein certain questions.

The following answers of his are recorded in the ensuing language:

Mr. Epstein said he did not know why he had to go over this matter again, as Mr. Huddleston had looked at his records and dealt with him considerably about his tax returns filed jointly with Mrs. Epstein. I told him that the information assembled by Mr. Huddleston in that connection, supplemented with other data accumulated substantial variance in earnings realized during the period '48 through '52 over that reported jointly with his wife during the period.

I also told him that there was no secret about the information that I had or how the information was obtained, and that I would be glad to put all my cards on the table, because there was no intention on my part to misrepresent the possibility of criminal violations being involved.

He said that he would like to know how I could figure he had any more money than had been reported, and he did not believe it was possible for me to do that.

468-a We discussed the type records maintained for his pawn and loan business, the memorandum records about rental and other activities, and due to the incompleteness of those records that the combined net income of both Mr. Epstein and his wife had been arrived at on the basis of increase in net worth by comparison of reported net worth. He understood what that meant, because we talked about this subject, and the theory—.

* * * * *

471 A. (Continuing) We discussed ascertaining the combined wealth of Mr. Epstein and Mrs. Epstein as of the beginning of '48, and then determining the increase in that wealth at the end of 1948, and each of the years through 1952, and it was agreed at the meeting, particularly with Mr. Jones and Mr. Summers, that that way of arriving at his corrected income was the best means available to me on them.

Q. Now, just so there is no misunderstanding here, Mr. Homer K. Jones agreed that this net worth method of arriving at income was the best method to be used under all the circumstances here, that is, the condition of the defendant's books, is that correct?

A. That is correct.

Q. All right, go ahead.

A. I told him that his combined wealth, based on the information that I had available at that time, and including a close study there of the income tax returns, that his wealth at the beginning of '48 was somewhere close to two hundred thousand dollars.

• • • • • •

472 A. He stated that he did not believe his net worth was anywhere near that big, or combined net worth of he and Mrs. Epstein was anywhere near that big at the beginning of '48.

Q. You say "he"; who do you mean?

A. Mr. Epstein.

MR. HODGES: All right.

A. (Continuing) He said I must have used some inflated financial statements he had furnished the Manhattan Branch of the U. P. Bank.

Q. Inflated financial statements?

• • • • • •

473 A. (Continuing) I told him that I was not using any financial statements of the Manhattan Branch of the U. P. Bank in computing his net worth the beginning of 1948, and that the figures I used were based on third party records, and they were based on cost, and not any inflated figures such as he had reference to, as real estate that might have cost ten thousand dollars but he may have valued at fifteen due to the fair market value.

• • • • • •

474 Q. Mr. Norris, state what figure you used in his real estate there when you worked up this net worth. You stated that you worked it up from third party sources.

What figure did you use in valuing real estate of the 475 defendant, William Epstein?

A. Well, I used cost figures on everything.

MR. HODGES: I see. All right, that is what I want to get clear. All right, go ahead.

A. Well, at this point Mr. Jones kept insisting to Mr. Epstein that what he meant to say; that his net worth was bigger, instead of less than two hundred thousand dollars.

Q. This was Mr. Jones, now, Homer K. Jones, you are talking about, who said this?

A. Yes, sir.

* * * * * *

476 A. (Continuing) I told him that, based on the tentative figures, his combined net worth the end of '52 had increased approximately one hundred seventy-five thousand dollars, to somewhere near three hundred seventy-five thousand dollars or three hundred eighty thousand dollars, and that when you supplement that increase in net worth with other expenditures of a non-deductible nature that cannot be deducted on their tax return, such as Federal income tax, life insurance, living expenses, and items of that nature, that their correct income—.

Q. That type items that you are enumerating now are items that could reflect income, but would of necessity not be reflected in any net worth, so they would be added to any increase in net worth, is that correct?

A. Yes.

Q. All right, go ahead.

A. I said, after doing that, that would reach approximately three hundred twenty-five thousand dollars. That is, that was my figure at that time of their corrected earnings during '48 through '52.

MR. HODGES: Sure.

A. (Continuing) I pointed out that they had only reported on hundred ten thousand dollars, and that that substantial difference was the reason that I was looking into the tax returns, that the unreported portion was so

478 great they indicated a variance between the corrected income figures that I had arrived at at that time.

MR. HODGES: Sure.

A. (Continuing)—Compared with the returns, and that that difference, which approximated two hundred thousand dollars, that that was the main reason that I was investigating his income tax returns and dealing with him in that conference.

* * * * *

479 A. (Continuing) Mr. Summers agreed that Mr. Epstein's records were not adequate, were not sufficient to prepare a correct income tax return, because they couldn't be verified; he couldn't verify the information on the returns, could not verify sales, he could not verify expenditures made in currency; there was no way to determine whether they had been made or not made; no way to tell whether information was on there or not on there in the books.

Mr. Epstein also said that there was no way to verify sales reported, mostly receipts of currency, and that purchases of the pawn and loan business or the money received from various customers was in the form of cash or currency.

I told him that was one of the main reasons why it was
480 necessary to resort to the net worth method and verify his tax returns and in determining corrected net income, so that is all right.

Q. In other words, the main reason you felt you had to do it this way to substantiate it, because, as you say, all his receipts were cash and most of the payment for merchandise was in the form of cash?

A. That is correct.

MR. HODGES: All right.

A. (Continuing) And could not be verified as to what is in the books.

MR. HODGES: All right, I see. Go ahead.

A. (Continuing) Some of the items on my computation at that time were checked with Mr. Epstein. He was very interested in my figures. He told me he only had three bank accounts at the Manhattan Branch, other than one at the First National Bank for a short while which has no bearing particularly on this matter.

We talked about Treasury bonds, amounts, other type bonds. We went over Investors Syndicate contracts and Fairchild Engine Corporation stock, various other assets of his, to see if he found anything wrong with any of the figures or any of the cost amounts that I had assigned to those various assets, and also some liabilities.

* * * * *

481 I told him that it would be necessary for me to talk to various people, —some of them would be relatives of his, and I wanted to tell him before I did it. I did not want him to be hearing it from various people where it would appear that I was trying to do something unfair or slipping around his back. I wanted him to know that I would have to do that.

* * * * *

482 A. He was asked about two per cent sales tax listed as a deduction on page 3 of his tax return and how that was arrived at, and he said he and Mr. Summers just estimated that figure, based on expenditures, that he spent a lot of money for automobiles and other items subject to sales tax.

I pointed out that there were two hundred ninety dollars deducted for sales tax in '48 through '51, and that amount of sales tax would have been based upon fourteen

thousand five hundred dollars, and that he claimed three hundred dollars sales tax.

* * * * *

483 Q. Fourteen thousand five hundred dollars in '49, and the same figure in '50, '51, and '52?

A. It would have been for '48, '49, '50, and '51.

* * * * *

486 A. Well, there are quite a few items that are not subject to the two per cent sales tax. That is, expenditures of a personal type, services, and I think—, I dont think drugs and any type service would be subject.

* * * * *

488 Q. All right. Now, how many people were in the household? Did Mr. Epstein tell you his household, in addition to these at least two servants, or possibly three?

A. Well, there were Mr. and Mrs. Epstein and his son, his daughter, and up until sometime I think the middle of '52 there was J. P. Kirschner residing there with them. I think that is all.

Q. Well, that is five people and two or three servants in parts of the years, —four people and two or three servants the remaining years covered by the indictment?

A. There was two or three servants; there was always three.

Q. But living on the premises, at least two, maybe three living on the premises?

A. Yes, sir.

* * * * *

489 Q. All right, what figures did you show him, specifically? That is what I am interested in.

A. Well, anyway, I asked him if he was contending that this two hundred something thousand dollars differ-

ence over and above reported income was coming from prior accumulations or money he had already made and saved in prior years, and if it was in his possession at the close of '47. And he says he did have some accumulation of currency that he kept in the safe at his place of business and that he spent during this period. He said it was a
490 practice for him to keep sums of money on hand for business and personal reasons. I asked him about how big those sums would reach. He said he did not know exactly, but would have ten, —fifteen, —twenty thousand dollars in cash on hand in such safe.

I asked him how much cash he had on hand at t' ıt date, which would have been November 19, 1954. He said he did not know, he hadn't counted it lately. I asked him how much he had the last time he counted it. He said he did not remember, he guessed somewhere six or seven thousand dollars.

We talked about gifts, inheritances, loans, and items of that type, and he said that he never did receive any or any form of money.

Q. Sure. As I understand it, he said he never did receive any wealth in any form? Did you say in the form of gifts or inheritance?

A. From relatives in any form, gift, or inheritance or loans, that were not repaid, and that the money he spent for various things stated, except from loans, represented the earnings for he and his wife, or savings they had accumulated in prior years.

* * * * *

491 A. (Continuing) We talked about his stepfather-in-law, J. P. Kirschner. He said he borrowed money from J. P. Kirschner, that he sometimes borrowed for or ten thousand dollars from J. P. Kirschner, but it was always

repaid. He told me about getting some inventory and fixtures from Mr. Kirschner in '49 valued at some twenty-seven thousand dollars. He said it cost him a thousand dollars.

* * * * *

Q. In other words, Mr. Epstein's wife—, what was the exact relationship? Do you have the exact relationship as to how he was his father-in-law?

A. Well, he was Mrs. Epstein's stepfather.

* * * * *

492 A. Well, I asked him—, talked to him about Mr. Kirschner, because I knew of the J. P. Kirschner Sales Store; I knew about the tax returns being filed for some thirteen years in the name of J. P. Kirschner; I knew that Mr. Kirschner was dead.

* * * * *

Q. Where are these buildings located?

A. These buildings are located side by side on Beale Street.

* * * * *

496 A. And the impression I got from him, that the Kischner Store was a separate business altogether from his business.

* * * * *

TESTIMONY OF JULIUS MASON

DIRECT EXAMINATION
BY MR. VADEN:

* * * * *

500 Q. Julius, I will ask you whether or not back in 1948 you had occasion to make a loan of about five thousand dollars through Mr. William Epstein?

A. Yes, sir.

Q. And whether or not you gave some security on some property that you owned?

A. Yes, sir, he gave me a loan on my property.

* * * * *

Q. (Continuing)—Some schedules showing you paid that property out. Did you later borrow some more money from him in '49? If so, how much?

A. Two thousand.

Q. So you got one schedule five thousand dollars, and one two thousand loan?

A. Yes.

Q. Five thousand at $55.52,—two thousand, $24.02?

A. $24.02, yes. sir.

Q. Are the payments pretty well up to date?

A. Yes, sir, they are.

* * * * *

TESTIMONY OF HUBERT A. NORRIS

DIRECT EXAMINATION (FURTHER)
BY MR. HODGES:

* * * * *

505 Q. Prior to the time of the November of '54 conference, I believe you stated that Mr. Homer K. Jones said he was going to get up some figures for the purpose of comparing with you some cash figures, and you have already stated you told him your cash figures at that time, told him and Mr. Epstein together, and tell us whether or not Mr. Homer K. Jones ever got you up any cash figures different from the ones you showed him at the November of '54 conference?

A. The figures that Mr. Jones showed me pertaining to things other than cash, pertaining to assets and liabilities, to the assets and liabilities, was almost identical with

mine for the years under indictment. For '49 he showed the defendant as having seventeen thousand five hundred dollars cash on hand—.

Q. And you had showed him how much, now?

A. Well, the same figure, was the figure that I had shown him.

MR. HODGES: I See. Go ahead.

A. (Continuing)—But it was the same figure that I had already arrived at. The other figures, speaking generally, were identical or very close to mine.

Now, during the ensuing four years on to the end of
506 '52, Mr. Jones' figures showed eighteen thousand dollars cash on hand, which amounted to a five hundred dollar increase during the four year period under indictment. My figures showed sixteen thousand dollars cash on hand, which was a reduction of cash on hand of some thousand—.

Q. But you said seventeen thousand five starting out, and sixteen at the end, so it showed fifteen hundred dollars deducted or decrease over the four-year period, and his had shown five hundred dollars increase over the four-year period of the indictment, is that correct?

A. Yes, sir.

* * * * *

507 Q. This is when Mr. Jones and Mr. Bernstein and Mr. Gerber and Mr. Deutsch were in there that this one hundred sixty-eight thousand dollars cash on hand came out, is that what you are saying?

A. Yes, that the cash on hand had increased by that date to one hundred sixty-eight thousand dollars in his figures.

Q. Well, up to —during that period tell us whether

or not you had made more than—, hadn't you made several comparisons with Mr. Jones?

A. I made—, well, Mr. Jones didn't have any figures at the first meeting with the defendant. I did spend two days with him comparing our figures. That is along in March, I believe, 21st and 22nd of '55. Then the next time I have an opportunity of seeing Mr. Jones' figures on June 21, '55, at a conference in Nashville, that he submits some figures and computations around at that time, his figures had jumed up to one hundred sixty-eight t[illegible]usand dollars,

and the same figures were again covered or embodied
508 in the explanations of the defendant on July 14, '55.

Q. In other words, then, in March, '55, he had beginning cash on hand seventeen five, roughly, —June, '55 it jumps up to one hundred sixty-eight thousand dollars, is that what you are telling us?

A. That is the way his figures showed.

Q. From November of '54, when it began, to March, the seventeen five had changed and just jumps from seventeen five to one hundred sixty-eight thousand dollars, is that what you are telling us?

A. Well, in November, '54, Mr. Jones did not have any figures. Now, Mr. Epstein told me at that time that the most cash he had was twenty-five or a little over.

* * * * *

512 Q. Explain briefly what records you examined, and whether or not these records you saw were sufficiently complete to determine the defendant's income.

A. Well, I have seen some of those records that they introduced here the other day.

MR. HODGES: Yes, sir.

A. (Continuing)—And I saw those previously. Those were the ones that Agent Huddleston made an extensive

study of. I saw Mr. Epstein's cancelled checks for each of the years under indictment. And I also saw Mrs. Epstein's cancelled checks for 1949, along with bank statements and records relating to that bank account.

That is generally all of the records that I spent any appreciable time on.

Q. Well, did you use any other information supplementing the books and records to determine income?

A. Yes, I used information that was reflected in his tax returns that I was able to verify, and I used his inventory, information reflected on the return as to the merchandise inventory. Most of the other information was obtained from various third parties.

* * * * *

521 Q. Mr. Norris, explain briefly just what the net worth expenditure method is. We have gone into it briefly, but let's go into it a little more in detail, and as to how it is used in determining a person's net income for a particular year or period of time.

A. Well, it is a means of reconstructing a person's earnings within a given year or period. You first, for example, would ascertain or determine what a person's net worth at the beginning of a year—, that is, you would arrive—, ascertain all of his assets and his liabilities, and the difference would be his net worth or wealth at the beginning of a year. Then you do the same thing at the end of the year, and that is after he has operated his business and paid his business expenses and paid his purchases and all business costs have been handled during the year, and at the end of the year you again determine his assets and his liabilities and his net worth. If it is greater at the end of a year, well, naturally he is worth more at the end of the
522 year than he was worth at the beginning. You then

have his increase in net worth within that year. You add to that increase in net worth money that he has spent or expenditures of a personal nature he spent that are not deductible for tax purposes, such as payment of Federal income tax, life insurance payments, gifts to anybody he wants to, —gifts to relatives, or living expenses. Then you add those type expenditures to his increase in net worth, and you will arrive at—, and at that same point, if he received any loans, and if he received any gifts within the year, you would subtract it, and then your net result would be corrected earnings within the year. And I might state that it would be the minimum corrected earnings, because you are never able to ascertain all of a man's personal expenditures.

Q. But that is the way, then, of arriving at a man's minimum net income, that is, by adding his increase to net worth that occurred during the year, adding to these expenditures that are not reflected in net worth, such as payment of income tax, living expenses, life insurance premiums, and matters of that kind—.

A. And also subtracting any non-taxable income he might have received.

523 Q. Sure, like gift or inheritance, and things of that nature?

A. Yes.

Q. Sure. Did you prepare by this net worth method some computations reflecting net income realized by Mr. and Mrs. Epstein during each of the calendar years '49 through '52?

A. Yes.

Q. Do you have—, well, are the results of that computation identical to the income figure specified in the indictment for each of the four counts?

A. Yes, sir.

Q. Were you requested by our office to prepare a chart setting out the income specified in the indictment?

A. I did prepare such a chart.

Q. Do you have the chart?

A. Yes, sir, there.

* * * * *

524 THE COURT: Mr. Norris, what they are inspecting at this time is explanatory of your testimony in this case, is that what it is?

525 A. It is based strictly on the indictment figures.

THE COURT: It is based strictly on the indictment figures?

A. My testimony would explain those figures on there, though.

THE COURT: I might explain to the jury at this time that this blown-up summary, so to speak, is admitted only for the assistance and convenience of you jurors in considering the evidence which it purports to summarize, you understand, and it is for that purpose that these so-called blown-up summaries are submitted. They are not evidence themselves, you understand. But, as I say, they are admitted in evidence only for your assistance and your convenience in considering the evidence which has gone before in this case, and which this summary purports to summarize, you understand.

* * * * *

531 THE COURT: And this chart that is offered at this time is admitted under the same conditions as the other chart, gentlemen, so that you will fully understand.

* * * * *

532 THE COURT: Admission of these so-called blown-up computations or summaries made by the witness are competent and admitted in evidence, as I have explained to you, for your assistance and your convenience in considering the evidence on which they are based.

Of course, if there is no evidence to support them, they are not worth anything to you. They are merely explanatory, as I say, of the evidence which has gone before. It is for your convenience and your assistance in understanding this case and in arriving at the facts about it that they are admitted in evidence.

So keep that in mind. There are several of them to come. And that is the purpose for which they are used, and the only purpose.

* * * * *

533 Q. Now, Mr. Norris, look at Exhibit Number 4 and explain that chart to us.

A. Well, this is the tax computations. These figures over here represent the tax reflected on the return filed for these years. For these years, this is the tax computed on the corrected income for each of these years, according to the indictment. And this is the additional resulting from the one hundred forty-six thousand dollars unreported income shown on the other chart.

And for 1949, the return showed his tax $4,278.96. The indictment charges that it should have been $22,844.03, or an understatement of $18,565.07.

For 1950, the return showed income tax of $11,225.82. The indictment alleged it should have been $26,874.35, or an understatement of $15,648.53.

In 1951, the return showed $3,866.31 tax. It was corrected to $32,303.39, or an understatement of $28,437.08.

In 1952, the return showed tax of $3,492.62. That was
534 corrected to $14,846.17, or additional tax of $11,353.55.

The total taxes paid or reflected on the returns for these four years was $22,863.71. It was corrected to $96,867.94, or additional taxes of $74,004.23.

Q. Mr. Norris, you have computed, based on taxes and income increase in net worth, that shows how the income for each of the four years for defendant and his wife was computed, —that is '49, '50, '51 and '52—?

A. Yes, sir.

* * * * *

538 Q. Mr. Norris, just start out and explain briefly what makes up this chart, and how it was used to arrive at corrected net income as compared to net income re-
539 ported in the return.

* * * * *

A. I would like to state first that the figures and information reflected on this chart have in the main been testified to—.

* * * * *

541 THE COURT: Are they figures you are proposing to fill in at this time?

A. I am going to show that the evidence has already
542 been introduced to support those figures. They referred to them on defendant's income tax returns and other records already in evidence.

THE COURT: That objection is overruled, then.

* * * * *

543 A. (Continuing) This is a reconstruction, or practically figures a reconstruction of Mr. and Mrs. Epstein's net income during the four years under indictment. These are the figures embodied in arriving at the net income figures for these years.

* * * * *

A. (Continuing) That is, to arrive at a person's increase in net worth at the beginning or end of a year, you have to ascertain their net worth at the beginning of that year or at the end of the prior year. Therefore, the
544 year '48 there appears up here because this information is compiled as of December 31st, 1948, which is the same thing as saying that it is the first of '49. So all of these figures across here represents assets, liabilities, and other figures as of December 31st, 1948, and 1949, '50, '51 and '52, and the change during the period. I will explain that more later.

* * * * *

545 THE COURT: Mr. Norris, the figures for '48,—is that for the entire year?

A. Those figures are at the close of '48. That is the starting point to determine what the increase for the year '49 was.

* * * * *

546 THE COURT: (Continuing)—It is necessary to make a start on this so-called net worth method.

* * * * *

A. (Continuing) It would have been on the early part of the morning, January 1, '49.

This represents computations as to the cash on hand. It is an asset item. Cash on hand at the close of 1948 was $20,000.00. At the close of 1949 was $17,500.00. At the close of 1950 it was $17,000.00. At the close of 1951, $16,524.18.

At the close of 1952 it was $16,000.00. That was a de-
547 crease during the period of $4,000.0 in this cash on hand funds. I come back later and testify how we arrive at the cash figures.

Q. Work through the whole chart, explain it, then we will go back through the details. I want to show—.

A. This says cash in bank. That is the amount—, that is the bank balance in the account of Mr. and Mrs. Epstein. They had more than one account at the close of 1948. At that date, the total was $6,183.51. It dropped down to $4,179.41 there by the close of '49. In '50 it was $7,164.69. At the end of the following year, '51, it was $12,029.86. In '52 the bank balance was, at the close of the year, dropped to $4,896.00.

Now, the change in their bank balances at the end of these years, that is, from 1948 to the close of 1952, was a decrease of $1,287.51.

Q. Two eighty-seven what?

A. $1,287.51. The next asset is headed up U. S. Government bonds. That includes some savings bonds that he had on hand at the beginning of the year. There was no change in there. It was the cost figure of the savings bonds. He did not buy any more. That is War Savings Bonds, Series "E," "G" bonds, and they were I think the sav-
ings bonds. I have details as to all this, but there was
548 very little change in this during the entire period. It also includes some regular Treasury bonds of larger amounts. I have combined it into this one asset called U. S. Treasury bonds.

At the close of 1948 he had $40,392.79. Rather, that was the cost of those bonds. 1949, the end of that year, it increased to $41,030.29. 1950, increased to $46,730.29. Increased

a little more in 1951, to $47,492.79. Increased some more in 1952, $48,255.29. Most of that increase results from interest, unclipped coupons on those Treasury bonds.

During this period his investment in U. S. Government bonds increased from $40,392.79 to $48,255.79, or a total increase of $7,862.50 for that period.

Now, he owns stock and securities, and they are grouped. That is several type assets. That is stock he owns in corporations and investments of that type. They are grouped here under the heading stock and securities.

At the close of '48 he had invested $31,229.10. '49, $33,131.73. '50, it was $38,750.13. Increased to $42,268.62 by the end of '51. And it decreased in '52 to $36,708.66.
549 There was an over-all increase in that type asset of $5,479.56. He and his wife had investments in partnerships and joint ventures, —various—, that is, several of them. Their investments at the end of '48 in partnerships and joint ventures aggregated $34,397.43. At the end of '49, increased to $43,805.20. It moved to $57,288.30 by the close of '50. Further increase in '51 to $58,865.24. At the close of '52 to $149,926.25.

The investments in partnerships and joint ventures during the four year period under indictment was $115,528.82.

Mr. Epstein had some merchandise inventory for his pawn, loan and sales business. At the close of '48 the inventory was $72,509.50. At the close of '49, $124,986.45. '50, $132,250.75. By the end of '51, $148,278.60.

'52 he did not have any merchandise inventory at all owned individually by himself because his business had been converted into or changed into a partnership with a

cousin named Maynard Epstein. That is the reason his investment in partnerships increased something over one hundred thousand dollars, —almost one hundred thousand dollars in the year '52. That move caused this asset there to move up to here, and some remainder of it went into
550 notes, because it had not all been paid for.

* * * * *

Real estate and improvements to real estate. These still are cost figures. He owned real estate—, he and his wife costing $40,000.00 at the close of '48. It was unchanged at the end of 1949. By '50, it was $49,511.31. It increased in '51 to $107,450.48. By the end of '52 it increased to $146,966.93.

Their combined investments in real estate and improve-
551 ments thereto during the four year period totalled $106,966.93.

* * * * *

A. Notes and loans receivable. At the close of 1948 he had $22,297.45, notes and loans receivable. $19,281.13 at the end of '49. $17,364.90 at the end of '50. $47,173.85 at the end of '51. $87,197.67 at the end of 1952.

Total increase in receivables, $64,894.20. Most of that pertains to notes or mortgages, —notes secured by mortgages on real estate he had sold, and some thirty thousand dollars still owed him when he sold a third of his merchandise inventory at the beginning of this year.

* * * * *

552 Now, the sum of those figures represent the total of his assets for each of those five years. Now, the assets at the close of '48, as listed here, amount to $267,606.78.

At the close of '49 they were $325,986.21. At the end of '50 they amounted to $367,557.37. '51, the end of that year,

it was $474,680.63. By the end of '52 it amounted to $491,541.78.

The increase in his assets from the end of '48 to the end of 1952 was $223,935.00.

Now, during those same years, Mr. and Mrs. Epstein
553 had liabilities. This is a list of their liabilities.

* * * * * *

556 A. (Continuing) His total liabilities for each of these years, or at the close of these five years, starting with the '48, amounted to $20,767.15, $26,548.96, $20,310.21,
557 $88,986.42, $88,276.91. Increase in his liabilities during this four year period, $67,509.76.

Now, at this point, to arrive at his net worth, you subtract his liabilities from his assets, and the result is called net worth. And his net worth at the close of 1948—his net worth was $246,839.63. At the end of '49, it was $299,437.25. By the end of '50 it was $347,247.16. 1951, $385,694.21. And by December 31, '52, $403,264.87. That constituted an increase from the first of '49 to the last of '52 of $156,425.24.

The next step is determining how much increase was involved each year. You subtract his net worth the close of '49—, rather, you subtract from his net worth at the close of '49 the net worth at the beginning of the year which is involved.

In 1949 he had $299,437.25 net worth. At the beginning of that year it was $246,839.63. The difference is $52,597.62.

By making the same subtraction each year on that, —take this from that, —his increase in '50 was $47,809.91. The increase in '51 was $38,447.05. For '52 it was $17,570.66.

558 The aggregate of these increases for each of the four years amounted to $156,425.24, which is the same figure I mentioned just previously, —that last, —that.

Then at that point you have computed his net worth. An increase occurred in his net worth each of those four years.

Then you take into consideration expenditures of a personal nature, or expenditures that are not deductible for any reason, as far as income taxes or income tax returns are concerned, and also those expenditures pertaining to—, rather, that do not pertain to any of the assets or liabilities.

None of these expenditures were paid on acquiring any assets or reducing any liability, or paying off any loan. They are personal expenditures. They are expenditures that are not reflected in any of these figures I have already recited here.

Now, those expenditures of a personal nature naturally originated from some source. The money came from some source. The indictment alleges that it came from—, that it was earned currently during these four years.

* * * * *

559 A. (Continuing) These taxes reported as paid, they are actual figures for the taxes that were paid within these calendar years. And the tax return figures for '50, the figures on the return in '49 may be different. This is—, he doesn't mean that he has paid it, because the return itself was filed for three or four months of the next year. But these are payments made on income taxes, irrespective
560 of what returns it pertains to, that were made within the calendar year, from the payments.

Q. In other words, that first figure, '49, is not the same tax that he paid on his income for the calendar year '49, but that is the amount of money the defendant paid to the Internal Revenue within the calendar year '49?

A. That is correct.

Q. So the last payment on the '49 return may have been made in '50, consequently it would be included in the next year's chart, is that right?

A. Yes.

* * * * *

Q. Read the totals. I want you to read the totals.

561 A. During these four years, Mr. and Mrs. Epstein paid $22,900.17 Federal income tax.

Life insurance premiums paid by Mr. Epstein during those same years totaled $9,448.84.

Salaries to domestic help paid during those four years totalled $10,411.00.

He purchased two automobiles during that period that cost $5,183.43.

Personal living expenses, based on an analysis of cancelled checks of their two checking accounts amounted to $13,906.08 during 1949, $8,952.63 during 1950, $14,089.89 in 1951, and $12,920.94 in 1952, or a total of $49,869.54 during the four years.

* * * * *

564 A. Now, he was entitled to certain eliminations out of his increase to net worth, —his non-taxable gains. He had some gains involved that were not taxable. We eliminated the non-taxable capital gains that he had, which amounted to $3,366.64 in the four year period.

Now, here is some inventory received from the Kirschner Store, and it constitutes elimination of $16,721.10 for the year 1949, and that is the only year involved on it.

Now, included in his totals up here is a note of some ten thousand dollars given Mr. Epstein by Mr. Kirschner in connection with some inventory, or inventory transaction back in 1937. It will be explained in detail over further.

But he received during this year twenty-seven thousand dollars inventory from Mr. Kirschner, along with some fixtures, and said he only paid a thousand dollars for it. Instead of eliminating all of the twenty-seven thousand dollars cost of the inventory, I took ten thousand and some odd dollars out of his assets by dropping off the note that he held, and the remainder to make up the twenty-seven thousand was $16,721.10. We then went to deduct that from this computation. In other words, we eliminated the entire twenty-seven thousand from these figures, in order not to tax him at all on the twenty-seven thousand, since he said he got it for nothing, and it was handled in the way
565 most favorable to the defendant.

Then, when you consider these personal expenditures along with these few eliminations I have here, you would arrive at corrected net income.

For '49 it was $60,633.24. And in '50, $66,358.55. '51 was $69,325.84. '52, it was $38,792.41. Now, the aggregate of the four years was $235,110.04.

Now, these figures, now, are getting down and agreeing with the same figures in the indictment as corrected net income.

Now, Mr. Epstein and Mrs. Epstein reported during these four years $88,169.79. Now, this difference between what they reported and the corrected net income resulting there from this computation represents the alleged net income under-reported as alleged in each of the years, totalling $146,940.25 for the four year period.

* * * * * *

571 A. All these figures are based on the cash on hand and in some instances in the bank reflected on financial statements furnished by Mr. Epstein. The year in

572 which he did not furnish a statement was the approximate difference between every other year's statement.

Q. You state they were in agreement up in the spring of '55 and it was only in June or July that the defendant's figures ballooned way up?

A. Well, that is when I realized Mr. Jones had increased his cash on hand, the figures at the beginning period, some one hundred fifty or sixty thousand dollars more.

* * * * * *

585 A. The aggregate of those figures I have been reciting would total the amount for stocks and securities for each of these years across here, a total increase of $7,862.50. That is the wrong line testifying there, —$4,479.56.

Investments in partnerships and joint ventures. Mrs. Epstein has an interest in Lippman's Loan Office. At the close of 1948, her capital account or her investment in that firm, $22,313.71. She did not draw any of the profits realized in the following years, and at the end of 1949 her investment was $25,403.78. At the end of '50, was $29,526.60. The end of '51, $32,509.97. The end of 1952 was $34,916.52.

Park Avenue Restaurant. Mr. Epstein had investment in that concern at the close of '48, $7,843.72. He sold that interest or disposed of it in '49, and he had no further interest in it the remainder of the years.

Vollentine Hills Subdivision. He had an interest in that firm that cost him five thousand dollars at the close of 1948, —1949. It increased to $14,535.17 in '50. It changed to $12,492.29 in '51, and decreased to $10,461.62 in 1952.

His capital invested as partner, Jaffe Dry Goods Store,
586 Osceola, Arkansas, started in 1949, and at the close of that year, $13,401.42. '50 was $13,226.43. It decreased in '51 to $11,862.32. In 1952, it was $11,254.87.

He had an interest in Charjean Homes, —C-h-a-r-j-e-a-n. In fact, both he and his wife did. They invested two thousand dollars in that concern in 1951, and still had that investment at the end of that year. The firm owed them some money over and above the investment at the close of 1952 of $882.49, so that $882.49 is a negative asset figure.

Epstein Loan Office, —this is taken into account when his business was changed into a partnership the first part of 1952. By the end of that year, his interest or his share in the assets of that business, based principally upon inventory, —and it was two-thirds of the inventory, —was $94,185.73. And it appears only at the close of 1952.

Now, the total of those figures that I read would come back to these figures, investments in partnerships and joint ventures, for each of the years.

I think the next item is inventory, William Epstein Pawn and Sales business.

His ending inventory was $72,509.50 in 1948. That figure is possibly the same one here, so that is the only
587 figure involved in that, and would be no need of reading that any more.

The next item is fixtures, William Epstein Pawn and Loan business. Now, that is the only item involved in that.

Then you get down in the real estate, and there are quite a number of figures involved in arriving at his investment. Cost of real estate and improvements to real estate.

He owned three buildings on Beale Street that were purchased prior to the indictment period. One of them cost seven thousand, one cost seventy-five hundred, one cost twelve thousand five hundred. There was no change at all to those three buildings, no increase in cost or no additional

amounts charged for improvements made to those buildings. So there would be no way—, would be the same all through the period.

He purchased a residence at 661 East Drive prior to this period for eleven thousand dollars. His investment or cost of that home the end of '48 was eleven. According to my figures in '49 it was still eleven. In '50 he started improving that real estate. The cost plus improvements by the end of '50, —$16,737.66. By the end of '51, it was $39,196.61. It did not change any by the end of '49 from that period.

588 He and H. H. Jeter purchased four acres or more of real estate on Highway 51 South in 1950. Mr. Epstein's share of the cost of that was $3,673.65. He also paid four hundred dollars for his share of grading work done on that real estate. So the end of '52, his investment was $4,073.65.

He acquired a duplex on Barton Street in '51, paying by the end of '51 $2,423.64. At the end of '52 he had invested in that building $6,250.31. And he still owned that building at the end of '52.

He also acquired a lot on Turner Street in Memphis in '51 at a cost of $1,287.35, and he still owned that lot at the close of '52.

He bought a duplex on Gold Avenue in 1951. Well, he actually bought a lot and constructed a duplex on it. And the end of '51 his investment for that property was $4,583.15. He sold that piece of property in 1952.

He acquired the property at 1638 Union Avenue in 1951, costing him $7,286.08. And that was the same cost used the end of 1952.

Some of these properties have mortgages, which are handled as liabilities. And on that particular one he
589 had not paid for all—, he had not paid the entire twenty-seven some-odd thousand dollars. He does have a note on that, a mortgage.

He acquired some other property and constructed three duplexes on different addresses on Silverage Street, —S-i-l-v-e-r-a-g-e. Two of these cost him $6,487.98 at the close of '52. And the year '52 is when he spent the money for that property. The third one cost him $6,583.21.

There is another duplex on Wabash Street which he invested in '52 $6,748.84.

Two duplexes on Montgomery Street. In '52 he invested in one $6,782.46, and the same amount to the other one.

* * * * *

A. (Continuing) There is twenty acres of land Mr. Epstein had acquired in Crittenden County, Arkansas, prior to this period at a two hundred thousand dollar cost,
590 and there is no change in that during this period at all. Well, you add those various figures, and here is—, it would come back to this real estate and improvements on there.

The next asset is headed notes and loans receivable. The first one pertains to Mr. Epstein's one-half interest of the $12,162.25 notes given or granted by W. C. Cockerham and wife, West Memphis, Arkansas, that they purchased a piece of real estate over there from Mr. Epstein and Mr. Jeter and they gave a note—, some notes amounting to $12,162.25. One-half of those notes belong to Mr. Epstein. And at the end of '49 the unpaid part—, unpaid portion of his share of those notes was $6,081.13. In 1950 he still held $4,

864.90 of those notes. In 1951, it was $3,648.67. 1952, was $2,432.44.

He loaned Q. & S. Realty Company of Memphis sixty-eight hundred dollars prior to the indictment period. They had not repaid him that money until 1951. That obligation of Q. &.S. Realty Company, which is a receivable of Mr. Epstein, that is money that is owing to him. They owed him six thousand dollars in '51. They owed him thirty-five hundred dollars in 1952.

He sold a one-third interest in his pawn and loan business to Maynard Epstein, effective as of January 1,
591 1952. Sale price based on one third of inventory of Mr. Epstein's business at that date was $41,666.66. Maynard Epstein still owed Mr. William Epstein $31,661.66.

* * * * *

599 Q. Mr. Norris, at the end of yesterday you had computed defendant's corrected net income for the four years involved in the indictment, and stated this is $235,110.04.

Can you show us what the defendant did with that money during the four year period? Do you have another chart that will reflect that?

A. Yes, sir.

* * * * *

606 Q. Mr. Norris, will you show the Court and jury what defendant did with the sum of money, the net income, as recapitulated on the previous chart?

A. This chart is headed disposition of corrected net income per indictment. The figures and information on this chart are derived from the same figures over here. They are just presented in a different manner. Actually, it shows how his corrected net income was applied, or what he did

with his money, with his earnings, along with some nontaxable income involved in these years, and it pertained to the years 1949 through 1952, and these amounts were broken down, or, rather, were grouped for simplicity in presenting this picture as to what he did with his earnings, along with some untaxable money that was spent during this period.

For the year '49 his business investments amounted to $60,343.40 that year. 1950, he invested eighteen—.

* * * * *

A. (Continuing) 1950, he spent $17,356.17 for business investments. It is $40,413.74 in '51. '52 amounted to $8,351.14.

Total during the four year period that are called business investments amount of $127,464.45.

Real estate, —this is the payments, cost of real estate, money he spent for real estate and improvements. Nothing in 1949. $9,411.31 that he spent in 1950. '51, he spent $48,039.17 on real estate. '52, he spent $39,516.45.

He spent a total of $106,966.93 on real estate during this period.

His living expenses, —'49, —these figures are based on 608 study of his cancelled checks and those of Mrs. Epstein, and these figures are based entirely on those cancelled checks, and do not necessarily include all of his personal living expenses. In '49 it was $13,906.08. '50, $8,952.63. '51, $14,089.89. '52, $12,920.96.

Total during the period, $49,869.54.

* * * * *

A. (Continuing) Federal income tax, —he did pay Federal taxes during these years. In '49 he paid $4,986.10. '50, $3,227.36. '51, $11,225.82. In 1952, he paid $3,460.89.

609 Total payment of Federal income tax during this period was $22,900.17.

Life insurance premiums paid each of these years, —'49 was $2,352.76. '50 was $2,369.36. '51, $2,365.36. '52, $2,361.36. Total payment for insurance, life insurance, $9,448.84.

Stocks and bonds acquired, —payments for stocks and bonds, $2,540.13 for '49. '50 was $11,318.40. 1951, $4,281.00. '52 was nothing. Total, $18,139.53 for the period.

Payment to domestic employees. Twenty-five hundred dollars in 1949. Same amount in 1950. $2,265.00 in 1951. $2,759.00 in 1952. Total of payments to domestic help, $10,411.00.

He purchased two automobiles. One of them he bought in 1949, $2,633.43. The other one in 1950, cost $2,550.00. That is a total of $5,183.43.

There is an item here that actually does not represent an expenditure in the true sense, but it does represent increase in his bank balance. He put this much more money in the bank than he withdrew during the year. Therefore, year end balance for the year 1950 increased $2,985.28. The same increase occurring in '51 amounted to $4,865.17. There was no increase for the year '52, or the year 1949.

610 Total increase for those two years mentioned was $7,850.45.

He paid some loans and other obligations. He paid five thousand dollars in 1950 to Manhattan Bank. Nothing in 1951. $4,757.95 in 1952. Or a total of $9,757.95.

He had a capital loss in the year '51. That is actually not an expenditure at all. It is a part of a loss that is not deductible for tax purposes. I listed it here because it is not deductible, and would have the same effect as if he had

spent it for tax purposes. The amount of that portion not deductible for that capital loss was $959.56, and only occurred in the year 1951.

The total expenditures during each of these years, also taking into account the capital loss in '51, or that portion not deductible, —for '49, $89,261.90. In 1950, $66,670.51. 1951 was $138,891.71. '52 was $74,127.73. The total was $368,951.85.

Now, that figure there represents the money that he spent, or the expenditures over and above the cost of operating his business, and over and above his business expenses.

He reported for the year '49, $20,105.62 net income. For the year '50 he reported $37,142.46. The following year was $16,526.59. '52 was $12,395.12. He reported total net income the four years of $88,169.79.

The money that he reported will be subtracted from his total expenditures, along with some non-taxable income. In other words, these figures down here, as stated, they would be grouped on this net worth determination for simplicity of proof in presenting it. They include loans, non-taxable types of income that he is enttiled to, and certain liabilities or deductions.

For the year 1949, it amounted to $28,628.66. For the year 1950, it was $311.96. For the year '51, $69,565.87. '52 was $35,335.32. Total non-taxable income and other items amount of $133,841.61.

The aggregate of those two, —the net income reported plus the non-taxable income, loans, et cetera, for each of these years, —for the year '49 it amounted to $48,734.28. You subtract that from the total expenditures of $89,261.90.

It would leave a difference of $40,527.62 for the year 1949. Now, that is the same figure in the indictment that is alleged unreported net income.

I will continue reading these totals across as to the total of income reported and untaxable income.

612 For 1950, his total, $37,454.42. '51, it was $86,092.46. For '52, $49,730.44.

There was a total for the period of $222,011.60.

Now, when you subtract for each year this sum I specified from the total expenditures, you have the line here.

There is a difference for the year '49 of $40,527.67. For '50, $29,216.09. '51, it is $799.25. It is $52,799.25. For the year '52 it was $24,397.29. Or a total of $146,940.25 that he spent, applied, increased his net worth, or that he used the money for personal reasons over and above the net income reported or over and above non-taxable income.

* * * * *

641 A. (Continuing) Then the years—, talking about the years that he did file and that he did pay some tax and the returns were destroyed, in order to determine what amount of income he reported and what amount of adjusted income he reported, adjusted gross, —we would take the tax table as the basis of the taxes paid, and back up, so to say, and arrive at how much adjusted gross income he would have reported to have paid that amount of tax. So these figures as to certain years in which returns was not filed, they are based on the taxes paid, backed up in there to arrive at the adjusted gross income.

And those are the figures that Mr. Gerber asked in the early part of the trial that I compare any such figures that I had with Mr. Deutsch. I did that. And our figures some years hit to the dollar. He computed the same way, based

on the amount of taxes paid. There was very little difference of any significance between my computations on the years where we arrived at his adjusted gross income
642 per taxes paid, —very little difference between my figures and Mr. Deutsch's figures that I compared with Mr. Deutsch and Mr. Bernstein since this trial has started.

* * * * *

But Mrs. Epstein during those years reported $35,138.18. J. P. Kirschner's tax returns showed income from 1937 to '48 adjusted gross income, one hundred twenty-eight thousand. And that is actually the profits of the sales store, $128,977.98.

643 The total or aggregate income of those three returns and those three people from 1920 up to the close of 1948 amounted to $484,964.66.

My next step was to determine what expenditures—, or what happened to this money.

I know that they paid Federal income taxes totalling $95,121.73 up to the close of 1948. They paid life insurance premiums $33,495.55. Now, this is actually the life insurance premiums paid by Mr. Epstein. These taxes represent the taxes paid by Mr. Epstein, Mrs. Epstein, and also the taxes for the J. P. Kirschner return.

Contributions, amounts expended for contributions, charitable purposes, taxes, et cetera, which are deductible, amount to—, and this is based just on the years for which we were able to obtain the original income tax returns or had access to copies of returns still in the possession of Mr. Jones, —.

Q. In other words, that is a minimum figure, because some of the tax returns had been naturally destroyed by the Bureau, and naturally, the filing records showing the

amount of tax paid would not show the amount claimed for charities, and taxes, and so forth?

644 A. They could have paid more than this for that year.

* * * * *

A. (Continuing) That amount would be $19,144.58.

Servants' salaries, —and that is just the few years prior to 1948, and in arriving at that figure I took into account the testimony of Columbus Nathan and also explanations of Mr. Epstein as to how many such employees were out there and the salaries they were to receive, —this is a minimum figure of $10,500.00 paid to domestic help.

* * * * *

645 Q. That includes his automobiles, furniture in his house, all jewelry bought in that period, or items like that?

646 A. That is right, items we consider personal effects.

MR. HODGES: All right.

A. (Continuing) —From 1920 to the close of '48 that they would have spent.

Living expenses from 1920 to 1948, and based strictly and computed strictly on what Mr. Epstein stated to me they were during this period, some years being as little as five hundred dollars, amount to seventy-two thousand dollars.

His net worth, computed at December 31, '48, was $248,839.63. They certainly had to spend that money to acquire any such net worth at the close of 1948.

To total those disbursements, it amounts to $514,010.90. Or it is $29,046.24 greater than the income, combined income of those three people. And that would mean, according to the chart, it would appear that he spent almost thirty

thousand dollars more than they earned. However, that difference could be attributed to possibly gifts that he might have received, or some other factor. But on reported income—.

Q. But I believe in regard to gifts, —didn't you ask him whether or not he had received any gifts?

A. Yes, sir, he said he had received no gifts of any significance.

* * * * *

649 Q. Will you go over this chart, Mr. Norris, which has just been introduced as an exhibit to your testimony, showing cash on hand per bank statements furnished by defendant, William Epstein, on the various dates as set out there on the chart?

A. These financial statements were discovered and studied in order to corroborate what Mr. Epstein had told me as to the amount of cash on hand he had at various times when I talked with him in November of 1952. He told me that he had ten, fifteen, twenty thousand dollars on hand at various times. He had already told Revenue Agent Huddleston that he may have had—the highest that he may have had on hand at any time was between thirty and forty thousand dollars.

* * * * *

650 A. (Continuing) Statements that he gave the Manhattan Bank from January 1, 1940, up to January 1, 1954, as to cash on hand is shown on this chart, the date of the statement, for the headings here for these dates.

* * * * *

651 I don't show the January 1, 1954, cash on hand on this chart, but it was $15,000.00. And I did use that statement in arriving at the cash on hand at the end of 1952, since that was the next statement that I had to—, that I

used in determining the amount of cash that he would have had on hand at the close of 1952.

• • • • • •

652 Q. Are these all the financial statements furnished a bank you were able to find given by the defendant, William Epstein?

A. Well, that I was able to find, yes, sir.

• • • • • •

654 A. Now, this statement dated or prepared as of December 31, '49. What I wanted to point out on this statement, —his merchandise, —that is an asset, that is merchandise inventory. He has two figures here. One he 655 says loans sixty-five thousand dollars. Now, it is my interpretation that that pertains to loans on pawned articles. In addition, he has other inventory of a merchandise nature of ninety thousand dollars.

Now, I have included the sixty-five thousand dollars there as his assets, which would be a little different, would be that much different from the total assets he lists. And it would also have a bearing upon the net worth. But I did want to point out, for whatever benefit it might help anybody, that the sixty-five thousand dollars loans specified on that financial statement is my interpretation that is the amount of money he has loaned out on pawned articles, and he has the articles, and it is a part of his inventory at that time.

So, then, based on that statement, his assets would be the end of 1949 $334,600.00, less the liabilities of $12,300.00. His net worth would be $322,300.00.

The January 1, 1952, statement, which is exactly two years later, —assets $484,410.32, liabilities of $55,445.86. A lot of that is loans at Manhattan Bank. The net worth, $428,964.46.

656 His assets increased during those two years $149,-810.32. His liabilities increased $43,145.86. His net worth increased $106,664.46 during those two years. And during the same two years he reported net income $48,-499.40. His net worth increased $58,165.06 over and above that he and his wife reported.

* * * * *

659 A. Well, I believe that the jury and the Court already are familiar with what I said as to the discussion we had on November 19, 1954, about cash on hand, that the highest figure he had was twenty thousand dollars; and he did not know how much it was when he last counted it; he did not know how much it was at the time I talked with him, but he thought it was —and I am speaking from memory, —six or eight thousand dollars. But then, the next time I talked with him over at Nashville, —or, rather, the next time that he talked when I was present, he then said that at the beginning of 1948 that he had in his safe twenty-two thousand dollars cash on hand that belonged to him in one pile or one stack in the vault.

* * * * *

662 Q. We have got a signature card here that has been introduced as an exhibit to Davis' testimony from U. P. Bank as to who could cash check on this J. P. Kirschner. Who was authorized to sign checks on the J. P. Kirschner Store account? Or was J. P. Kirschner authorized to draw checks on the J. P. Kirschner Store?

A. According to that signature card, the only person who could withdraw money from the J. P. Kirschner or Kirschner Store account was Mrs. Epstein, —Mrs. Pearl Epstein.

* * * * *

666 Q. In other words, if you add up the inventory listed on the J. P. Kirschner Store, inventory on the return, —add that to the inventory listed on defendant Epstein's tax return, it just about equals the inventory listed on this financial statement which you have reference to which the defendant Epstein over there furnished the Manhattan Branch of the Union Planters Bank? Is that what you are saying?

A. Yes, sir. For instance, as an example, his December 31, 1946, statement to the Manhattan Bank Branch of U. P. Bank showed merchandise inventory $70,000.00, as of the end of 1946. The inventory at that date shown on his 1946 tax return was $38,359.60. The inventory shown on that same date on the J. P. Kirschner tax return was $31,987.50. That makes a total of those two inventories on those two tax returns, $70,347.10, which is only three hundred and some-odd dollars greater than the amount shown on the financial statement.

* * * * *

671 A. (Continuing) And his explanation that I talked with him about this was whether—why wasn't the cash listed on the financial statements, and I tried to explain what he said as the reason it was not listed on his prior years from '49, that he considered that Kirschner may have some claim on the money and he was not fully sure that the money belonged to him, that some relatives might come in and claim the money belonging to Kirschner. However, he had already stated that nobody knew about any such cash at all down there except his wife and son.

Q. Did you ask him specifically who all knew about this large sum of cash there that he claimed was in his safe,

twenty some-odd thousand in his pile, eighty some-odd thousand in the Kirschner pile, and sixty some-odd in
672 his wife's pile?

A. He said that nobody knew about this but his wife and his son and himself.

Q. Was any other member of his family present when he so stated that?

A. His son.

• • • • •

678 Q. Mr. Norris, this morning there was some contention made by defense counsel that some items had not been proven, and involved some stock and some real estate, as to the cost.

I wish you would provide a brief explanation concerning those matters as to what you personally say and what some of the rest of it is based on. Can you do that right now?

A. Yes, sir. I have had opportunity to check through my files some. I did not have time to make a thorough check on that. And I see that most of the items in the real estate, the cost that he had listed on some of his income tax
679 returns for depreciation purposes or when the real estate would be sold, —now the cost that he listed on his returns is just about the same, —there may be a few dollars difference, but very little, if any, difference between the cost that he had listed and the cost that I have.

• • • • •

A. (Continuing) —And the land, costs of the land, we have records already by records introduced as to ownership of land and transfer of that property. We have those records, the State transfer tax and also the Federal tax applicable to such pieces of land, and some testimony as to the land has already been testified to by—

* * * * * *

704 Q. Would you read off there the cost of those pieces of property that this fellow Jameson—, the ones Jameson built for the defendant Epstein?

A. On the Montgomery pieces of property, —one—, 746—748, acquired November 4, '52, the cost for the building, exclusive of land, $5,868.00.

750-752 Montgomery, acquired in November, 1952, for the same cost, $5,868.00.

183-185 Silverage, acquired in June, 1952, cost $5,898.00.

231 and 233 Silverage, acquired in February of '52, at a cost of $5,710.00.

705 235-237 Silverage, acquired in February of 1952, cost of $5,710.00.

The Wabash Street property, acquired November, 1952, cost $5,898.84.

* * * * *

725 Q. Did you receive letter from Bernstein, Snodgrass, Katz and Jacobs, as of February 3, 1955, signed Israel Katz, —this letter?

A. Yes, sir.

* * * * *

726 MR. HODGES: (Reading) "Mr. H. A. Norris, Intelligence Division, Internal Revenue Service, 212 Falls Building, Memphis, Tennessee.

"Dear Mr. Norris:

"In compliance with your request, I am submitting the information as requested by you regarding various holdings of Mr. William Epstein and wife, Pearl Epstein. These figures were taken from books of account,

worksheets, and other records of the companies listed below, which have been and are now in my possession.

"(a) Prescott Company, Inc.:

Cost of stock, acquired February 21, '51—Ten shares, William Epstein, $2,379.33. Ten shares, Pearl Epstein, $2,379.33. Total cost, $4,758.66.

Stock paid for as of December 31, 51, $1,000. Stock
727 paid for as of December 31, '52, $4,758.66.

"(A total of $1,000.00 was paid by William and Pearl Epstein as down payment on this stock on February 21, 1951. The balance of $3,758.66 was paid out of the funds of Charjean Homes, a partnership. All funds of Charjean Homes at this time were obtained from bank loans. This payment was charged to William Epstein's personal account on the partnership books.)

"Loan balances payable to William Epstein—

December 31, '51, $3,500.00.

December 31, '52, $5,500.00.

"(b) Charjean Homes (A Partnership):

Balance in Capital Accounts, William and Pearl Epstein, December 31, '51, $2,000.00. December 31, '52, Deficit—($1,082.49).

"(c) Forrest Park Apartments, Inc.:

The stock certificate book in my possession shows 110 shares of common stock, $100.00 par value, transferred to Mr. William Epstein in April, 1951, certificate No. 8. There were 330 shares of common stock outstanding, at a total book value of $33,000.00.

728 "(d) Vollentine Hills Subdivision (A Partnership):

Balance in Capital Account, William Epstein:

December 31, '47, $5,000.00.

December 31, '48, $5,000.00.

December 31, '49, $5,000.00.

December 31, '50, $14,535.17.
December 31, '51, $12,492.95.
December 31, '52, $10,451.62.

"(e) Hawthorne Builders, Inc.:
Amount of Capital stock, William Epstein:
December 31, '50, $8,750.00.
December 31, '51, None.

"(This corporation was dissolved on March 1, 1951, and assets remaining, Mr. Epstein's share of which amounted to $6,830.88, were transferred to Vollentine Hills Subdivision and credited to his capital account on the partnership books.)

"(f) Lippman's Loan Office (A Partnership).
Balance in Capital Account, Pearl Epstein:
December 31, '47, $17,591.26.
December 31, '48, $22,313.71.
729 December 31, '49, $25,403.78.
December 31, '50, $29,526.70.
December 31, '51, $32,509.97.
December 31, '52, $34,916.52.

"(g) Q & S Realty Company, Inc. Amount of Capital Stock, William Epstein, 125 shares, $100.00 par, acquired April 2, '46—$12,500.00. Notes Payable Balance due William Epstein:
December 31, '50, $6,800.00.
December 31, '51, $6,000.00.
December 31, '52, $3,500.00.

"Yours very truly, Israel Katz."

* * * * *

CROSS-EXAMINATION
BY MR. WILL GERBER:

* * * * *

749 Q. Never did. Did you ever find, Mr. Norris, where he had ever been arrested in his life for the violation

of any regulation concerning his pawn business or violating any statute of any kind in his life? Did you ever find—?

A. There was some information along that line.

Q. Not talking about that. I am asking about—

MR. HODGES: Just a minute. Let him answer.

MR. FITZHUGH: You asked him.

MR. HODGES: Go ahead, Mr. Norris.

A. There was some information obtained that he had been arrested, yes, sir.

Q. Where is the information? We want the information.

A. It is in the morgue of the Commercial Appeal.

• • • • •

831 Q. Mr. Epstein filed a return for all of it, didn't he?

A. Actually, there was no difference, I don't think, in the operation down there. It operated just like it had been operated under Kirschner's name.

Q. Did you go down and watch them operate it?

A. That is what they told me.

Q. Sir?

A. He said just merely cut the door—, door through there, —cut down the name of Kirschner. That is what he told me.

Q. After the Act of '49 was passed?

A. After it was repealed, yes.

Q. Sir?

A. After it was passed, yes; after the act went out in '49.

• • • • •

TESTIMONY OF LOUIS T. WEIS

CROSS-EXAMINATION
BY MR. VADEN:

* * * * *

927 Q. Now, you say after you started in 1949 keeping these books, —and when you say that, you are speaking about those books right there?

A. That is right.

Q. That is the only books you fooled with?

A. That is correct.

Q. Yes. —You would get some memorandums and you would get that from Mr. William Epstein, some of them, wouldn't you, or Mrs. William Epstein?

A. I presume I would. Somebody down there did give them to me.

Q. And once a month they would give you a memorandum to put on the books?

928 A. That is correct.

Q. If they had so much down for expenses, or purchases made out of cash, that would be on this piece of paper they would give you and you would put it on the books?

A. I would say purchases came from the checks, yes. They did very little merchandise purchasing by cash.

Q. Yes. And whatever the sales were, they would have on the memorandum?

A. That is right.

Q. (Continuing) —That they would give you, and then you would say—, you would take the memorandum, this piece of paper they gave you, and you would put it on those books there?

A. That is correct.

* * * * *

Q. Loans that were paid out of cash?

A. That is correct.

Q. They would put that on a piece of paper and you would put that on the books?

A. Yes, sir.

929 Q. I see. Do you make out income tax returns for persons that employ you for that purpose?

A. Yes, sir, I do.

Q. And did you do it in 1949, and prior to that time, anybody that wanted to use your services to make out tax returns?

A. Yes, sir, I did.

Q. I don't believe you made out Mr. Epstein's income tax returns?

A. No, I have never made out Mr. Epstein's income tax returns.

* * * * *

Q. Umhum. Mr. Summers would take the book you put it on, or Homer K. Jones, and he appears to be, for all practical purposes, Homer K. Jones—that is, Summers would take the figures off the books you had and make out an income tax return?

930 A. I presume that is what he did.

* * * * *

Q. Yes. You say that there is a thing that you and I call a police blotter or record that they have to keep in that record, a police record, —you say there was a book kept for the police?

A. There is a large sheet of paper which is kept for the police.

* * * * *

931 Q. Well, the pawn shop, —what you and I call pawn shop detail, pawn shop squad, —they did have a pawn

shop squad that works Beale Street for some years here, —I don't know whether they do now or not, —that is right there, isn't it?

A. Yes, sir.

* * * * *

TESTIMONY OF J. C. McDONALD

CROSS-EXAMINATION
BY MR. VADEN:

* * * * *

962 Q. And there was a large—, just simply hundreds of very small loans?

A. Oh, yes.

Q. Of course, on those kind of loans, a man needs lots of ones, fives and tens, doesn't he?

A. I am sure, yes, sir.

Q. Would you say that twenty thousand dollars in ones, five and tens would make a pretty good-sized bundle?

963 A. I imagine it would to me.

* * * * *

RE-CROSS EXAMINATION
BY MR. VADEN:

* * * * *

964 Q. Chief, at that time would you say that Mr. Epstein's relations with the Police Department were very frienldy?

A. Yes, sir.

Q. You were there and I was not. Did he ever come around up to the Police Station much?

A. Well, he used to, years ago.

* * * * *

TESTIMONY OF ALBERT WOOLDRIDGE

CROSS-EXAMINATION
BY MR. FITZHUGH:

* * * * *

979 Q. Mr. Wooldridge, Mr. William Epstein has been a valued customer of your bank for many years?

A. Yes, sir.

Q. Some thirty-five years?

A. Yes, I would say so. He was a customer—.

980 Q. He has borrowed lots of money from time to time from the bank?

A. Yes, sir, a good many times.

Q. And has large accounts there?

A. I would say he had adequate accounts.

Q. Adequate. You say that Mr. Epstein told you that his statement in his financial statements that he furnished the bank, on which loans are made, that he has not included his assets as set out in the statement?

A. I said that he told me that he had other assets that he had not included in the statement.

Q. Do you know it is a serious offense to make a false statement in a financial statement to a bank to secure a loan, isn't it?

A. Yes, sir, I know that.

Q. It is a very serious criminal offense, isn't it?

A. That is right.

* * * * *

981 Q. But the obtaining of a financial statement by a banker is not just an idle gesture?

A. No.

* * * * *

TESTIMONY OF MAYNARD EPSTEIN

CROSS-EXAMINATION
BY MR. VADEN:

• • • • •

1014 Q What I am getting at, in '52 you made a purchase of ten thousand dollars in the partnership, —talking about what money you spent in '52, —and fifty-eight hundred dollars, whatever it was, for the duplex on Montgomery?

1015 A. That is right.

Q. Now, you say Mr. Waldauer drew this?

A. Mr. Waldauer and Mr. Ben Adams.

Q. And you read paragraph six, didn't you?

A. I think so.

Q. Well, just for fear you did not, I would like to read it to you. It is very short.

"It is distinctly understood and agreed that William Epstein, being the founder and original owner of the business, will act as supervisor of the partnership business and will regulate its policy. Should there be a difference of opinion as to the policy on the operation of any phase of the partnership business, then the two partners agree that the opinion and decision of William Epstein shall control. Maynard Epstein shall devote his entire time and best efforts for the successful operation of the partnership business, and shall not become actively engaged in any other commercial pursuit. William Epstein shall spend such
1016 time and give such aid and assistance in the partnership business as, in his opinion, is necessary and proper. However, William Epstein is not required to devote his full time to the business, the sale of the

partnership interest to Maynard Epstein being made under liberal conditions of payment. William Epstein shall be responsible for obtaining such funds as are needed for the purpose of financing the partnership Business."

Mr. Will Epstein had pretty fair control over the partnership under that, didn't he?

A. He was always honorable. We never had a discussion of policy since we have been there.

• • • • •

REDIRECT EXAMINATION
BY MR. WILL GERBER:

• • • • •

1019 Q. Let me ask you this. I have analyzed this contract, and I notice you signed a note for $31,666.66, you paid twelve hundred fifty dollars cash and you executed a check for eighty-seven hundred fifty dollars?

A. That is right.

Q. All together that is $41,666.66?

A. That is right.

• • • • •

1020 Q. The $41,666.66, is that one-third of the inventory at that time?

A. Slightly less; about five thousand dollars, roughly, less.

Q. When did you discover that?

A. I discovered that just before we went to close the deal.

Q. Just before you closed the deal?

A. Yes, sir.

Q. Why did Mr. Epstein sign this contract with you when there was more money due him as a result of the inventory?

1021 A. He tried to raise the price and put it what we had dealt for, and I told him I was going to back out then, that I had paid—thought I paid a big price, and I was not going to pay any more. So we agreed to let the five thousand dollar mistake go.

• • • • •

RECROSS EXAMINATION
BY MR. VADEN:

Q. You paid forty-one thousand dollars for a third of this old inventory that wasn't worth much money?

A. Yes, sir.

Q. Is that right?

A. That is right.

• • • • •

TESTIMONY OF RICHARD DEUTSCH
DIRECT EXAMINATION
BY MR. BERNSTEIN:

• • • • •

1052 MR. FITZHUGH: May it please Your Honor, I don't think that is competent.

Your Honor, I am confident, will charge the jury it is a proper method.

THE COURT: Objection sustained.

MR. WILL GERBER: He is qualified as an expert.

THE COURT: It is a recognized method of computing—.

• • • • •

Q. In your opinion, as an expert accountant, do you believe that the net worth method is an accurate method of determining—?

1053 A. It is not an accurate method—.

MR. FITZHUGH: Don't answer the question.

THE COURT: Don't answer.

MR. FITZHUGH: I object to the question.

THE COURT: Well, the Court is going to charge this jury that it is, so I don't think his opinion about it is proper.

MR. WILL GERBER: We note an exception, if Your Honor please.

MR. FITZHUGH: And we ask that his answer be stricken,

THE COURT: Strike it. The jury won't consider that answer.

• • • • •

CROSS-EXAMINATION
BY MR. VADEN:

1066 Q. Mr. Deutsch, since this trial started, you have been sitting here at the counsel table with counsel for defendant?

A. Yes, sir.

Q. So I assume you are employed in this matter for this trial.

A. Yes, indeed. I was employed as accountant, an advisor to the counsel, yes, sir.

Q. How much are you being paid for your services?

A. I am supposed to be paid on a daily basis for each day in court one hundred dollars.

• • • • •

1071 Now, otherwise Mr. Norris' figures are about correct, except I believe you said there was a difference in your figures on personal living expenses?

A. Yes.

Q. Some several thousand dollars?

A. Most of it was his fixing up of the home. I would say perhaps I explained—.

Q. Yes. Well, generally speaking, so far as the figures you have used here being Mr. Norris', you agree with him, then?

A. Yes, sir, we do. We agreed March 15th.

Q. That is right. As a matter of fact, you called figures back—?

A. Yes.

Q. And at that time you agreed to those figures, except these?

A. Yes, sir. Mr. Vaden, may I say we did not completely agree. I had different figures on some items, but I accepted the Government's figures as right.

Q. Now, did you inquire into—, you say you did go into the bank account?

A. Yes, I did, Mr. Vaden.

1072 Q. Did you notice withdrawals from the Kirschner store account by the Epsteins, and deposited in their own account?

A. There was, yes, five thousand dollars transfer was—, I remember one that stood me up quite a bit.

Q. And did you see other withdrawals and other deposits?

A. Mr. Vaden, may be I would have to go through all my work papers to be sure. I don't remember. I only remember the five thousand dollars.

Q. Umhum. Out of the account of Kirschner into the Epstein, and Mr. and Mrs. Epstein account, —that is true, isn't it?

A. It seems about—

Q. You mentioned one, Mr. Deutsch.

A. I try to remember. They I think claim—, of course, I did not see that—

MR. VADEN: Yes.

A. (Continuing) —That they sold merchandise to the Kirschner store, and in payment for the merchandise five thousand dollars was transferred from the Kischner account to Mr. Epstein's account.

* * * * *

EXHIBITS

Many of the exhibits are referred to and described in the appendices; however, appellee may wish to refer to some or all of said exhibits in brief at greater length. All of said exhibits will be duly transmitted by the Clerk of the District Court to the Clerk of this Court, prior to the setting in the case.